United States Court of Appeals

for the Second Circuit

EXHIBITS

DESIGNATED GENERAL COUNSEL EXHIBITS

VOLUME II

(16a-e)

GENERAL COUNSEL'S EXHIBITS

Volume II

Exhibit	Description
16a.	Designated pages from transcript of disciplinary trial of Cy Chermack.
16b.	Transcript of disciplinary trial of Robert Cinader.
16c.	Transcript of disciplinary trial of Jerome Bredouw.
16d.	Transcript of disciplinary trial of Jon Epstein.
16e.	Transcript of disciplinary trial of Michael Crichton.

SC 16A

INTRAUNION DISCIPLINARY HEARING

In the Matter of)
)
WRITERS GUILD OF AMERICA, WEST, INC.,)
)
and)
)
CY CHERMAK)
)
)

TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

July 5, 1973

ORIGINAL

REPORTED BY: William A. Cuff, C.S.R.
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CY CHERMAK.)
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TRANSCRIPT OF PROCEEDINGS taken on behalf of the Writers Guild at 8955 Beverly Boulevard, Los Angeles, California, commencing at 2:00 P.M., Thursday, July 5, 1973, before William A. Cuff, C.S.R., Notary Public.

BEFORE:

EMMET LAVERY, Chairman

MILLARD KAUFMAN

LEIGH VANCE

NATE MONASTER

JACK ELLISON

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MR. LAVERY: The hearing in the matter of Guild versus Cy Chermak.

Lavery, Chairman; board members, Vance, Ellison, Kaufman, Monaster.

MR. MAIZLISH: Attorney for respondent, Leonard Maizlish.

MR. MENDONSA: John Mendonsa, attorney for Guild.

MR. LAVERY: The hearing will come to order.

This is a disciplinary hearing in the matter of the Writers Guild of America, west, Inc. versus Cy Chermak.

This matter is being heard before a Trial Committee duly convened pursuant to Article X of the Constitution and By-Laws of the Writers Guild of America, west, Inc.

The members of the Committee, reading from my right, Millard Kaufman, Leigh Vance, myself as chairman, Emmet Lavery, Nate Monaster and Jack Ellison.

Will the parties state their appearances for the record?

MR. MENDONSA: Yes. John A. Mendonsa, appearing on behalf of the Writers Guild of America, west, Inc. My associate, Milton Orman.

MR. LAVERY: For the respondent?

MR. MAIZLISH: Leonard Maizlish, appearing for Cy Chermak.

MR. LAVERY: I have a copy of the charges and a cover letter sent by certified mail to Respondent Cy Chermak on the date of April 14, 1973. I have marked that as Exhibit No. 1.

(The documents were marked Trial Committee's Exhibit No. 1 for Identification.)

MR. LAVERY: Is there any objection to the receipt in

evidence of the exhibit?

MR. MENDONSA: Mr. Chairman, I have copies to distribute.

MR. MAIZLISH: What date did you say?

MR. LAVERY: April 14th.

MR. MAIZLISH: Mr. Chairman, with regard to this particular document, may the record show that the receipt indicates that it was received by Mr. Chermak on April 16, 1973?

MR. LAVERY: Yes, indeed. What I was reading was the writing date.

MR. MAIZLISH: Because it does involve a matter of importance. I will hereafter argue the characterization that you made, that this constituted the charges. I cannot accept that by explicit terms. It is simply a Notice of Disciplinary Hearing. It is not a copy of the citations themselves.

MR. LAVERY: We will have a notation made for the record.

MR. MENDONSA: I don't know if you are making an objection now. As I understand, you are simply noting it for the exception of this document at the present time?

MR. MAIZLISH: Yes.

MR. MENDONSA: When you make your objection on the basis it is not the legal charge, we will respond to the objection.

MR. MAIZLISH: I was just pointing out the chairman's characterization. This charge is not an accurate one. This document is a notice of hearing and charges.

MR. LAVERY: The record will so reflect.

Are there any other objections to the receipt of it?

(Trial Committee's Exhibit No. 1 was received into evidence.)

MR. LAVERY: I have as Exhibit 2 and marked as 2, a letter requesting --

MR. MAIZLISH: Mr. Chairman, before you go further, there are certain matters that I desire to make which I think are pertinent to --

MR. LAVERY: In that event, the chair has something to precede it.

If these are objections that might be entitled under the heading of certain motions, the chair has a preliminary statement to make.

MR. MAIZLISH: Okay.

MR. LAVERY: I was going to make this a little later, but some of us have sat on many of these hearings and it is our desire to seek justice and save time, and to save time of all concerned and to deal promptly with all of the issues before us, the chair suggests that the usual motions as to jurisdiction, imperfections in pleadings, temper of the times, characterization of the panel and so forth, all of which the panel heard and heard and heard, be submitted in writing and filed promptly with the Committee.

Now, let me continue.

In the meantime, counsel may properly assume that all of the usual rulings have been made and made in the negative.

This is not to prejudice your right to be heard. This is a practice that is followed frequently in neighboring courts. It seems to work very well for them and it seems to me that this is an ideal time to put it into practice here.

We have sometimes spent as much as an hour considering

purely collateral motions, jurisdiction, pleadings, dates of papers, dozens of them, and it is with that in mind that I make this statement now. Not to cut you off short, but to assure you that we are familiar with these matters and we sat through them many, many times, and we are a fact-finding committee. We like to get on with the facts of the case.

You may have heard a statement made by a writer two years ago that he spent an awful lot of time in an awful lot of hearings, time that was taking to "shoveling up smoke."

We don't want to go through smoke to get to the facts.

MR. MAIZLISH: Thank you, Mr. Chairman. I appreciate what you said.

I did not at this time intend to make what you term the usual motions. This is not a usual proceeding.

The usual proceeding is that the respondent is not present. In this proceeding, I think it is the first time in which anyone involved with Universal Studios is present, is here and to make a full and complete statement of the matter.

This is also not the usual situation in that the person talking is not a studio lawyer and an association lawyer. I am an attorney who represent many persons who are members of this Guild.

More importantly, I suppose I sat in this very chair in the negotiations of the Independent Agreement in March and I was the very first person to sign that agreement on behalf of another client.

I think, frankly, Gary Ellingsworth will tell you,

as others, that I was instrumental in negotiating that agreement. I think that agreement serves as a guideline with the agreement of the majors.

So, the things I wish to say at this time are not the usual motions made by studio attorneys.

MR. LAVERY: I do thank you, and the panel says it is a pleasure to meet the respondent in person. So speak.

MR. MAIZLISH: The Notice,and this relates directly to Exhibit 1, so I raise these matters at this time.

MR. MENDONSA: May I ask, are you now going to proceed on a lengthy course or motion?

MR. MAIZLISH: No, I'm going to make a request for certain information so that in presenting our case we can make a proper presentation of the case, and if there be a question asked "Why did you do it before?" the answer is that nowhere in the Guild's Constitution and By-Laws, or in any other constitutional rule is there a provision that provides for discovery, even the discovery of the names of witnesses. And I asked this of Mr. Mendonsa and he told me that it was the policy of the Guild not to provide in advance the names of those who would be witnesses and so-called accusers. Consequently, we had been making a futile gesture to have made these requests at any time prior to trial.

I think it is an appropriate time now to make some requests essentially, in my mind, to assure an adequate presentation of our defense.

The first request is that there be a greater specificity of the time when Mr. Chermak was alleged to have crossed

the Guild picket line at Universal Studios.

As the Committee will observe from the bottom of page 1, it provides simply that he's charged with crossing the Union picket line during the month of April 1973. There is no further specificity and, in that regard, I would like to turn to Article X B, Section 1 of the Constitution of the Guild, which says and I quote:

> "The charges shall specify as succinctly and explicitly as possible the nature of the offense and the date and place of the occurrence."

MR. MENDONSA: We will be more specific as to the exact date of the crossing.

I think the evidence will show that he did cross a line on April 13, 1973.

MR. MAIZLISH: As I understand it, that is the only date involved in this hearing; is that correct?

MR. MENDONSA: That is the only date that we will raise in this hearing.

MR. LAVERY: Then I suppose I might proceed with the trial exhibits.

MR. MAIZLISH: I've got a couple of other things for clarification, if I may.

Also alluding to that same paragraph, the last paragraph on page 1, Mr. Chairman, it alludes to Mr. Chermak crossing the line on what we now have as the date of April 13, 1973, for the purposes of rendering services.

You did not have any specification of what services he allegedly crossed the picket line to perform.

Obviously, we need that in order to deal with the charges.

I might point out in that regard, that the Notice indicates the charge is a violation of three sections and one of those sections, Section 13, contains multiple misdeeds that a person might engage in.

So, I'd like to know which ones we have to counter.

MR. LAVERY: Mr. Mendonsa?

MR. MENDONSA: Well, the Guild charges specifically that he was rendering services for the employer. The point of the matter is, he was rendering services to a producer against whom the Guild was on strike at the time. And therefore, he was rendering services to that company in violation of a Guild order.

MR. LAVERY: Unless there are some fellow members of the panel who think contrary, the rule is no further particularization of those sections are needed at this time.

MR. MAIZLISH: Mr. Chairman, just to finalize this one particular point, may I inquire, is there a charge that he in fact rendered services on that date, any services?

MR. LAVERY: Mr. Mendonsa?

MR. MENDONSA: It will be the Guild's contention that he did.

MR. MAIZLISH: Okay.

Perhaps, Mr. Chairman, your prior ruling answers this, but I think I should raise it for the record.

Section 1 is a rather broad omnibus sort of clause referring to any act or conduct prejudicial of the welfare of the Guild.

It could mean a great variety of things to any number of people. I am speaking with regard to that term, further delineation as to what specific acts are involved and encompassed within that charge.

MR. LAVERY: Mr. Mendonsa?

MR. MENDONSA: Section 1 is to be read with the other section. Any violation of Section 12 would also be a violation of Section 1.

MR. LAVERY: The chair ruling here, as in other matters, is that Section 1 speaks for itself and no further particularization of that at this time seems to be needed.

MR. MAIZLISH: Following up on what Mr. Mendonsa just said, Mr. Chairman, I would move to strike and dismiss the alleged violation of Section 1 on the ground that it is repetitive and duplicative of the alleged violations of Sections 12 and 13; that it is an unconstitutionally vague provision. It is reminiscent of the repugnant morals clause that I'm sure all of you have been compelled to sign upon occasion.

But since this, according to the Guild's counsel, it is nothing more than a catchall clause, which is not intended to cover anything more than the conduct alleged in Sections 12 and 13, I would move to dismiss Section 1.

MR. LAVERY: The motion is denied.

You understand why the chair made that ruling?

These are what I call challenges to imperfection in the pleadings, and we've been through this many times.

MR. MAIZLISH: Okay. I respect the position of the chairman, that based upon prior cases that the determination as to certain

motions would be in the negative, but I think that, if I may, I would like to just briefly run them so that I have it for the record, rather than miss something.

MR. LAVERY: I might tell you what the track record is. The all time record was set by cour[illegible], an hour and fifteen minutes.

MR. MAIZLISH: Well, what is the fastest time?

MR. LAVERY: Nineteen.

MR. MAIZLISH: You'll see a new record.

MR. MENDONSA: Mr. Chairman, I want to put on my first witness inasmuch as he has an appointment at 3:00 o'clock and has to leave at 2:45.

If Mr. Maizlish will agree to that, we will put on the witness.

MR. MAIZLISH: I have no problem with that.

MR. MENDONSA: I would like to call my first witness, Mr. Lee Siegel.

LIONEL E. SIEGEL

called as a witness on behalf of the Writers Guild, testified as follows:

EXAMINATION

BY MR. MENDONSA:

Q Would you please state your full name for the record?

A Lionel E. Siegel.

Q Mr. Siegel, are you a member of the Writers Guild of America, west, Inc.?

A Yes.

Q Approximately how long have you been a member of the Guild?

A About 12 1/2, 13 years.

Q Did you picket for the Guild during the recent strike the Guild had?

A Yes.

Q Directing your attention to April 13, 1973, did you picket on that date?

A Yes, I did.

Q Where did you picket?

A Universal.

Q Universal Studios, Inc.?

A Right.

Q Can you tell us what time of the day you picketed there?

A I was strike captain from quarter to 12:00 until 1:30. I was there in the morning before 9:00 until shortly before 12:30 and in the afternoon from 1:30 until 3:30, 4:15.

Q Did you picket any particular location at Universal?

A The main gate.

Q At times that you were picketing at the main gate, were there other people picketing also?

A Yes.

Q Can you tell us approximately how many people were picketing at the gate?

A About five or six.

Q Were you carrying a sign?

A No, I wasn't.

Q Were others carrying a sign?

A They all were, yes.

Q Can you tell us, or describe what the signs said, how they looked and what they said?

A Two by four "Writers Guild on Strike," "Writers Guild of America, west, on Strike." Football posters, orange, black.

Q Did they carry these signs on posts?

A On posts and on standard boards over the shoulder.

Q Were these people patrolling any particular area?

A Back and forth across the main gate, which is where I was standing.

Q Do you know Cy Chermak?

A Yes.

Q How long have you known him?

A Three or four years, I guess.

Q How would you describe your relationship with him, casual relationship, business relationship?

A Not a relationship.

Q Would you recognize him if you saw him on the street?

A Yes.

Q Do you see him in this room?

A Yes, right there.

MR. MENDONSA: Will the record show the witness identified, nodded to the respondent.

Q Now, again directing your attention to that day of April 13, 1973, did you on that occasion have occasion to see Mr. Chermak?

A Yes, as he drove on the lot, passed the picket line onto the lot.

Q When you say passed the picket line, did he drive through the picket line through the main gate?

A Passed pickets.

Q Through that area where you were on patrol?

A Right.

Q Did you have occasion to say anything to him at that time or did he say anything to you?

A No.

Q Do you know if he had a conversation with any of the other pickets there?

A I know that he did not.

MR. MENDONSA: I have no further questions.

CROSS-EXAMINATION

BY MR. MAIZLISH:

Q Mr. Siegel, are you familiar with Universal Studio lot?

A Yes.

Q There are a number of entrances to the Universal Studio lot?

A Yes.

Q The main entrance is the one in which there was the most pickets; is that correct?

A Usually, yes.

Q What time did you see Mr. Chermak come through?

A Approximately 1:00 o'clock.

Q He came through at 1:00 o'clock, right?

A Right.

Q What time did Mr. Chermak leave?

A I have no idea, I don't know, is the answer to that question.

Q Well, he did not leave between 3:30 and 4:15, did he, which is the time you indicate you were there?

A No; I didn't see him leave.

Q Pardon?

A I didn't see him leave during that time.

MR. MENDONSA: What time are you talking about?

Q BY MR. MAIZLISH: I believe you indicated that you were there between 3:30 and 4:15?

A Roughly.

Q You did not see him leave at that time?

A Yes; I did not.

Q Did somebody take your place at 4:15?

A Well, as a strike captain, nobody takes my place.

Q Were there other pickets there?

A Yes.

Q Did anybody inform you that they saw Mr. Chermak leave?

A No.

Q You say you got there at 3:00 o'clock?

A Yes.

Q Do you have any reason to believe that Mr. Chermak left Universal before 3:00 o'clock?

A Do I have any reason to doubt it?

Q Right.
A I have no knowledge of it.
Q Did Mr. Chermak, when he came through, drive through at anything other than a normal rate of speed?
A No.
Q Did he make any attempt to hide?
A No.
Q Obscure his presence in any way?
A No.
Q Do you have any idea what Mr. Chermak did while he was there?
A Not at all.
Q How long have you been the strike captain at Universal?
A Prior to this incident in April?
Q Right.
A About four weeks, four and a half weeks.
Q At any time during those four and a half weeks, did you see Mr. Chermak go into the studio?
A No.
Q Pardon me, I didn't hear.
A That is the first time I saw him.
Q The first time was April 13th?
A Yes.
Q As I understand your testimony further, you saw him come in at 1:00 o'clock?
A Right.
Q You came back at 3:00 o'clock and left at 4:15 and you did not see him at that time?

A Right.

Q And nobody who was on the line after 4:15 told you they saw Mr. Chermak leave after 4:15; is that correct?

A That is true.

Q Okay.

Did you see where Mr. Chermak parked his car?

A No.

Q Did you see Mr. Chermak at any time after you saw him enter?

A Did I see him on or about the lot, you mean?

Q Right.

From that main entrance you can see the Commissary, for example?

A Yeah. No, I did not.

Q Were you looking?

A Not really.

Q Okay.

Did anybody ever tell you what Mr. Chermak did on the lot that day?

A No.

MR. MAIZLISH: I have no further questions.

MR. MENDONSA: I have a couple.

REDIRECT EXAMINATION

BY MR. MENDONSA:

Q Mr. Siegel, you say that you saw him for the first time on April 13th. Did you see him go across the line at Universal Studios after April 13th?

MR. MAIZLISH: I'm going to object to that on the ground that that is outside the scope of the charges. In fact, it is outside the scope of Mr. Mendonsa's representation at the commencement of this hearing.

MR. MENDONSA: I'll withdraw it.

Q Mr. Siegel, again directing your attention to April 13th, are you familiar with the times that were being struck at Universal Studio on that date?

A Yes.

Q What times were being struck?

A I'm not sure. I'm not sure whether the picket was starting at 6:00 in the morning. It was either 6:00 or 9:00 in the morning, finished at 6:00 P.M. in the evening.

Q In any event, it was until 6:00 P.M. in the evening?

A That's correct.

Q So if Mr. Chermak entered the studios at around 1:00 P.M. and left after 6:00 P.M., there would be no one there to report it?

A That's correct.

MR. MENDONSA: I have no further questions.

MR. MAIZLISH: No questions.

THE WITNESS: May I ask a question? Is this permissible?

MR. LAVERY: You can ask a question of the chairman and he will answer it in his discretion.

THE WITNESS: This is a personal thing with regard to this proceeding.

I would like to know how long it's been since Cy Chermak wrote for television.

MR. LAVERY: When we get to the appropriate point, that will be something automatically brought out.

THE WITNESS: Basically, my feeling about it that that's very important.

MR. LAVERY: It seems to me it is an item that will be inevitably covered.

THE WITNESS: All right.

MR. LAVERY: If there is no further questioning, I think the witness can be excused.

MR. MENDONSA: I suppose, in the normal sequence of events, we can get back to Mr. Maizlish.

MR. MAIZLISH: I'll try to break any track record.

MR. LAVERY: All right.

MR. MAIZLISH: This is, I suppose, an objection you have heard from others. It is not novel to me. It is almost in any presentation in this proceeding, and it relates to the conduct of the officers, executives of the Guild that, to our way of thinking, have rendered it impossible for Mr. Chermak to receive the fair, impartial and the fastest hearing that due process requires.

I'm not going to cite cases, Mr. Chairman. I believe that you are the only attorney amongst the panel.

MR. LAVERY: Not an attorney in California.

MR. MAIZLISH: I think that all the members of the panel are familiar with such cases as that involving the overturn of the conviction of Sam Sheppard and the very recent dismissal of the charges of Dr. Ellsberg, because either of the attendant publicity or the action by someone on the prosecution side.

It is, I know, painful, but very familiar and it is unfortunate to recall what transpired with respect to Mr. Chermak.

Very briefly, first there was a public press release of the charges given to the general media, Los Angeles Times, television, made before Mr. Chermak was notified of the charges. That's one of the reasons why I pointed out when he received the notice of the charges.

The charges were disseminated generally April 14, Saturday. Mr. Chermak was notified April 16th, Monday. He learned of the charges through the general media.

Secondly, the statement itself that was issued to the press, to my mind, constituted a prejudgment of Mr. Chermak, and indeed even a forecast to his sentence.

I think we all remember the unfortunate words such as "Roll of dishonor;" having your name inscribed in the Guild's publication in perpetuity; and, thirdly, if the manner and content of that public pronouncement left any doubt as to the aura of this warning received, I think Mr. MacDuggel, who just departed, resolved that with a lovely phrase. I don't have to show them to you; you all know what he said on April 18th. Whether you want to call them famous or infamous comments that received front page attention, they certainly were damaging to the Respondent.

I recognize that the board moved rather quickly to undo the obvious harm that was caused by those remarks, but I ask you, in all sincerity: Can you really ever unring the bell?

Don't those remarks pervade this room? And don't

they eternalize disciplinary proceedings?

The highly publicized remarks of this man render it impossible for this panel -- and I don't single out you gentlemen; I think you are fair and impartial from any of the membership. But I don't think there is anyone in the membership that can really give to Mr. Chermak the impartial fair hearing of the type of objectivity open-minded hearings that due process requires.

I think, frankly, that there exists a vested interest on the part of the membership to administer some kind of punishment to Mr. Chermak to in some way vindicate the unconscionable conduct that has proceeded here.

So, given the resulting consequences, to which you gentlemen are not a party to -- you have been thrust into it -- it seems to me that, in the interest of justice, in the interest of due process, it seems to me that these charges should be dismissed and terminated.

MR. LAVERY: Mr. Mendonsa?

MR. MENDONSA: Are you through?

MR. MAIZLISH: With that particular part.

MR. MENDONSA: Let me respond.

I think, as you pointed out before, the receipt was April 16, 1973. I believe the phrase that Mr. Maizlish refers to appeared on the papers on April 18th, 1973.

MR. MAIZLISH: No. I referred to the general media. Mr. Chermak heard it on the Saturday night news. That's April 14th. April 18th is Mr. MacDuggel's comments, "Of course they are guilty."

MR. MENDONSA: I take it, then what you are saying, again, you are not presenting to the panel here what trade releases or newspaper leaflets you were referring to that occurred on the Saturday night of April --

MR. LAVERY: 14th.

MR. MENDONSA: -- 14th?

MR. MAIZLISH: I'm referring to the press release issued by the Guild stating that charges had been brought against Mr. Chermak, stating that Mr. Chermak should be convicted, placed in a roll of dishonor and his name inscribed in Guild publications and placed in perpetuity.

I might also add, I've omitted and should be left omitted the anonymous Guild spokesman who referred to Mr. Chermak as a pariah.

MR. MENDONSA: I really don't believe this Committee has been influenced by those statements that were made, not only with reference to Mr. Chermak, but with others, others that this Committee has already heard the trials, have been conducted before this Committee.

As to Mr. MacDuggel's particular statements, they were made on the 18th. The Board did take action immediately. It was also released in the trade papers on the 19th that he was not to take part in any disciplinary matters from that point on. He did not from that point on.

The fact that he may have referred to Mr. Chermak as being a party who was guilty, I think there was no doubt in his mind.

I bring this up because Mr. MacDuggel was here

present to testify that he observed Mr. Chermak cross the line. In his own mind, he was guilty of at least one Guild rule.

Other than that, I have no statement.

MR. LAVERY: If the chair might make a footnote. The usual ruling.

It seems to me that in a way the counsel for the respondent is prejudging our ruling. We haven't made any statement against Mr. Chermak, but you do presume.

This panel has not yet decided. We haven't yet heard Mr. Chermak.

And I must point out, in some of the cases, of course, the opportunity to test the person with fellow members in the Guild, they have been salubrious.

I don't say it can't be worked out, but it happens so seldom in the respondent's presence.

When writers get together -- I don't think you can express all the publications.

On the question heard many times as to whether there could be a fair disposition of the charges considering the temper of the times, if that were to be applied naturally, there would be no such things as fair hearings. And I'm not going to base the values implicit in that. Of course, there is considerable temper of the times under which considerable temper waves, but that Committee perceives and so shall we in good faith. And so the particular motion is denied.

MR. MAIZLISH: Mr. Chairman, I might point out an analogy to that temper of the times witness and notwithstanding the public flair and the publicity on that matter, the Watergate

Committee does not have any jurisdiction to levy fines, expel anybody or suspend anybody. It is an investigating body. So, it is not a body serving in a quasi judicial capacity. It is not a body that's authorized or is attempting in any way to impose discipline on anyone.

MR. LAVERY: This gets to be a matter of semantics. This Committee is a judicial body; it is a fact finding committee, while the Watergate Committee does not have the functions to impose fines and contempt, but the approval or disapproval of the senator is recorded immediately on television as a substantial equivalent of the power to fine or not to fine. But this is a philosophical question.

MR. MAIZLISH: I believe, Mr. Chairman, I would hope that 17 years in this business would not render me sufficiently naive, that this hearing wouldn't proceed fully if Mr. Chermak wouldn't be here, if we hadn't anticipated that it was going to proceed.

What we hope, and we hope it is not wishful thinking, because we can only go on the track record, the prior track record, indicate somewhat of the uniformity of decision. But we are here today to show, as I have indicated in remarks, the difference from other cases, not only because Mr. Chermak is here, but because the facts are different.

So, we would like you gentlemen to hear that with that in mind and to view it with that in mind.

I will run briefly through.

My request for dismissal on the grounds that various provisions provided for in the WTA by-laws -- there are really

so many violations that I don't know where to begin.

I recognize they are technical and the chair's ruling in advance, but it seems to me in terms of setting up this hearing, that a real shamble has been made of the procedure. And if the procedure is to have any meaning, it should have been followed, and if it wasn't important, it shouldn't have been put into the Constitution in the first place.

Let me cite some examples to you.

MR. LAVERY: Eventually I'll have to reply to that. I can't let the record stand unchallenged.

As I said before, we are a fact finding committee. I forgot to say, as some of our neighboring courts, we lean a little towards what I call the inclusionary rule, rather than the exclusionary rule.

We're a fact finding committee. We are getting as much facts as we can get to. Now, with respect to our Constitution, like our Constitution is famous for, this is a constitution of implied powers, limited powers, and a constitution of interpretation.

Now, your interpretation of our Constitution is one thing; the panel's interpretation may be something else.

The fact that we are developing a very flexible proceeding in our mind, doesn't make it a shamble.

This is not a court of law. It's not a grand jury.

I suppose we try to follow certain basic guidelines as well as we can, but we're not here just to say forget the Constitution. We read it one way, you read it another.

MR. MAIZLISH: The fact is, Mr. Chairman, it is more than a

fact finding committee. This is a committee that's going to make a decision. It is in fact a jury, if you please. This Committee is going to make a determination of whether or not Mr. Chermak violated certain rules, and if so, what his sentence imposed upon him should be.

I think in that regard, the importance of this Committee and its membership, and its rules and functions cannot be understated.

Briefly, Article X, Section B(6) requires charges be made by the Executive Director and the case be presented by the Executive Director, not by his counsel.

There is nothing contained in the Constitution and By-Laws that authorizes --

MR. LAVERY: Counsel, I don't want to cut you off, but we heard this before.

This Constitution is also a constitution of implied powers. If you were to read that Constitution literally, it would be 10 years before we get through the cases. The delegation of powers is obvious. We couldn't function otherwise.

There is no use taking 10 more minutes to argue that. We have been over it 10 times and we have ruled against it.

MR. MAIZLISH: I feel that it should be Mr. Franklin -- and I might add, that you are going to be hearing Mr. Franklin's name throughout this proceeding, because I think Mr. Franklin lies at the heart of the defense. But, I think he should be here hearing the matter, not Mr. Mendonsa.

The second point, Article X B, Section 4 provides the names of the Committee should be filed 10 days before charges.

As recently as two days ago, Mr. Mendonsa could not provide me with a complete makeup of this Committee.

Another point, no copy of the charges has ever been served on Mr. Chermak, as required by Section 10, by Section 5. He has received the Notice, but not a copy of the charges.

Another point -- and I will run through all of these because I understand the ruling.

MR. LAVERY: Yes.

MR. MAIZLISH: The rules for the members regarding strikes, in my view, were not validly adopted.

If they be deemed to be restraining orders, then it seems to me they were not authorized in accordance with Article IX C, Section 2 of the Constitution. If they be deemed to be orders of the Board under Article X A, it is our contention that they go beyond the power and the jurisdiction of the Board in the relationship between the Guild and Mr. Chermak.

Mr. Siegel would like to know when Mr. Chermak last wrote. I think Mr. Chermak last received a writing credit quite a few years ago, much farther than Mr. Webb.

Moreover, there is one thing I want to allude to, but I think it has been alluded to before. Moreover, the Guild, in its answer in the NLRB proceeding -- and that is why I asked for specification from Mr. Mendonsa as to what violation Mr. Chermak was charged with, but I refer here. I have the answer before me. The answer that Mr. Hackler as the Guild's Union counsel, filed in the NLRB proceeding, and I will quote, "That the threat of discipline was directed solely to members from crossing picket lines to perform writing work, as defined in the

recently inspired collective bargaining agreement with the Association.

MR. LAVERY: Before leaving that point, Mr. Mendonsa, would you like to fill us in? We have been over that area many, many, many times.

MR. MENDONSA: I don't know -- do you want --

MR. LAVERY: The particular one.

MR. MENDONSA: The particular one, the answer in the NLRB proceeding was not filed upon Mr. Chermak, or with Mr. Chermak. The answer that Mr. Maizlish has read from was not the final answer submitted in the NLRB proceedings. The answer submitted in the NLRB proceedings was amended to include any performance or services in any capacity.

I think that pretty much answers it, except that the charge, the charge that was served upon Mr. Chermak is no way changed by the NLRB proceedings he was served with in this case and we have not charged now they are the same charges.

MR. LAVERY: Our ruling has been negative on this point.

MR. MAIZLISH: I'm not very optimistic.

MR. LAVERY: I said at the beginning, the chair was willing to accept the usual motions with probably the usual rulings.

MR. MAIZLISH: In regard to what Mr. Mendonsa just said, since the NLRB decision is pending, irrespective of the five to four decision in the Court of Appeals in Washington, a decision in that matter it seems to me would effect a ruling in this matter.

It would appear to be a prudent course of action to suspend this proceeding pending that determination.

Another point. The strike rules provide -- I'm now referring to the very last strike rule, No. 31.

". . .by enforcement by some committee or committees as the council may designate."

As I read the Constitution and By-Laws, it is silent as to any governing body designated as a council.

I don't see anything in there that indicates that the Council as a body has any authority at all.

MR. LAVERY: Could we have a response from Mr. Mendonsa?

MR. MENDONSA: Let me explain that.

This was written in the parlance of the pre-January 1973 Constitution and at that time the Board, what is now known as the Board of Directors in its most recent Constitution, was generally referred to as the Council. This refers specifically to the Board of Directors. It probably should have been changed, but the term is used interchangeably.

MR. LAVERY: A member of the panel advises that the track record of 19 minutes has just been passed.

MR. MAIZLISH: I'm sorry.

MR. LAVERY: I should have said that off the record because you looked like a dismayed person.

MR. MONASTER: You smashed a few hopes, Mr. Maizlish.

MR. LAVERY: For the record, theoretically we are back somewhere to between Committee's 1 and 2.

MR. MAIZLISH: One and a half. I don't know.

MR. LAVERY: I don't know if all of these objections fall within there, but later in the proceedings we'll straighten out the record.

MR. MAIZLISH: I hope this is something new. And if it is, I'll claim pride of ownership.

It seems to me, as I read Section 13, that it supercedes Section 12. Section 12 says, it contains a provision against crossing a picket line and Section 13 contains that prohibition, and then goes on to spell out the kind of activity that members are prohibited from engaging in by having crossed the picket line.

And I would also say to Section 12, as such, is defective because there is nothing in Article X A of the Constitution that says crossing the picket line per se is an act subject to discipline.

So, I would, without dropping all of the charges, Mr. Chairman, so they be totally understood, I would suggest that the violations be consolidated because I think Section 13 encompasses Section 12, and the claimed violation of Section 12 be dismissed.

MR. LAVERY: Yes.

MR. MONASTER: Section 12 and 13 are exclusive of each other.

Section 12 provides the crossing of a picket line, as opposed to simply entering the premises of a struck studio. Section 13 prohibits certain enumerated items as its purpose.

In addition, the last sentence would be a catchall sentence:

> "Should a member find it necessary to visit the premises of a struck producer for any reason apart of the foregone, he should

inform the Guild of the nature and purpose of such visit."

And that, I believe, means the member would have to inform the Guild at any time that he wished to enter a struck premises regardless of whether or not in fact there was a picket line at that time.

MR. MAIZLISH: May I respond?

MR. LAVERY: Yes.

MR. MAIZLISH: Because I think Mr. Mendonsa has touched on an important point.

That language should be read and understood. I think the last sentence would be that he should inform. There is no mandatory provision, no requirement.

We all know that a number of members of the Guild visited the offices for whatever. There is nothing that says he must inform the Guild for visiting those premises. It simply constitutes an advisory, an indication that the better part of discretion would be to inform the Guild. But there is nothing mandatory of any kind there in the Constitution.

MR. LAVERY: Would you say if a school teacher said to a child, "You should not steal." Would the child not understand that there is a certain moral force backing the word should?

MR. MAIZLISH: Since stealing represents a crime, I think it has something other than a proper analogy.

If you said, for example, that on a rainy street where the speed limit is 35 miles an hour, considering the conditions and the fog, that you should drive about 20 miles an hour, that's not a requirement that you must drive 20 miles an

hour.

MR. LAVERY: I can give you a better one.

A mother to a child: "You should not run across the street."

Is there any imperative in the word should?

MR. MAIZLISH: My wife would say you must not, but she's simply a Jewish mother.

MR. MENDONSA: May I state one other problem with respect to the legality of Rule 12?

Article XVI of the Constitution provides that the Guild may from time to time adopt working rules, working relationships with members of their employers, agents and so on.

So, there is some bases for the establishment of the Guild Rule No. 12.

MR. MAIZLISH: In adopting rules, you are supposed to notify the Guild writer. There is supposed to be some procedure.

MR. MENDONSA: There is no evidence to show that those rules were not followed. The presumption is that they were followed, and in fact they were.

These rules were adopted on February 29th, 1973, by the membership of this Guild.

MR. MAIZLISH: It seems to me that the burden of proving the rules were adopted in a proper forum rests with the charging party.

MR. MENDONSA: I think differently.

It seems to me, every time we had a court action --

MR. MAIZLISH: I think, Mr. Chairman, we ought to move

along. I think I've made my record. I've made it in more than 19 minutes. I apologize to the clock watchers and to the other members of the Committee.

MR. LAVERY: Is that the summary?

MR. MAIZLISH: That is it.

MR. LAVERY: If Mr. Mendonsa has nothing further --

MR. MENDONSA: I think the Committee has heard the argument on the motion.

There is one however, that is new in this case that requires some comment, and that is that the Trial Committee was not set up properly under the Constitution.

I did have a conversation on the telephone with Mr. Maizlish two days ago. At that time he asked me who the members of the Committee were. At that time there were four members who were appointed to this Committee and there was one yet to be appointed. That is not to say that the Board of Directors has not selected a panel of people to serve on the Trial Committee. In fact, there are 14 people who serve on a panel that has been selected by the Board of Directors to serve on the Trial Committees.

At the time I talked to Mr. Maizlish, we had only four people who were available at the particular time to seat on the matter. Since that time, another member has agreed to sit on the panel. But these were all people selected by the Board of Directors.

MR. LAVERY: The ruling is as anticipated, that on all the previous motions made today, as to the previous motions for the panel, is to the negative; as to those motions which

may be somewhat new to the procedure, particularly the last one, the question of consolidation, whether or not Section 13 and 12, and particularly the motion as to whether the rules for the members were validly adopted, the ruling on those, are also denied.

Now, I think we were back at about to introduce Trial Exhibit No. 2 --

MR. MENDONSA: That is correct.

MR. LAVERY: -- which is a letter requesting a continuance of hearing, April 23, 1973, to Mr. Maizlish by John Mendonsa, Counsel. Do you all have copies?

Is it appropriate for us to take a few minutes to recess so people can relax?

MR. MAIZLISH: Subject to the reporter, we're ready to proceed.

MR. LAVERY: Are there any comments on Trial Exhibit 2?

MR. MENDONSA: I think we're ready to go with No. 2.

MR. LAVERY: No. 2, any comments?

MR. MAIZLISH: No.

(The document was marked Trial Committee's Exhibit No. 2 for Identification and received into evidence.)

MR. LAVERY: No. 3, a letter from John Mendonsa on April 30th granting a continuance to Tuesday, June 5th.

MR. MAIZLISH: No objection.

MR. LAVERY: So noted.

(The document was marked Trial Committee's Exhibit No. 3 for Identification and received into

evidence.)

MR. LAVERY: And a Trial Exhibit No. 4, a letter from Mr. Mendonsa to Mr. Maizlish confirming the rescheduling to July 5th.

MR. MAIZLISH: What is the date of that?

MR. LAVERY: The date, June 1st.

MR. MAIZLISH: No objection to that. It is the letter I would like the Committee to read because it does refer to one of the consequences of all these proceedings.

MR. LAVERY: So ordered. This exhibit is in evidence.

(The document was marked Trial Committee's Exhibit No. 4 for Identification and received into evidence.)

MR. MENDONSA: I don't understand Mr. Maizlish's statement.

If in fact he is referring to Mr. Chermak going to the hospital, this is the first I was aware of it that it was a consequence of these proceedings.

MR. MAIZLISH: Mr. Chermak is going to make a statement regarding that and I wouldn't want to preempt him. So, I just wanted to point out the fact.

MR. LAVERY: As long as it isn't a casual reference. The Committee will accept your statement and it will be dealt with.

MR. MAIZLISH: It will be dealt with by Mr. Chermak.

MR. LAVERY: I guess we're in the field of opening statements.

Mr. Mendonsa?

MR. MENDONSA: Very briefly, our opening statement is very much in line with the charge and we will simply show here that

Mr. Chermak did cross the Guild picket line on April 13, 1973 at Universal Studios, Inc., and he did go across the line for the purpose of rendering services to Universal Studios, Inc. when the Guild was on strike with that company, and of course these were violations of Guild's rules of members in April, dated February 20, 1973; specifically Rules 1, 12 and 13, and while on strike with the Guild's membership.

MR. LAVERY: Mr. Maizlish?

MR. MAIZLISH: Yes.

As I have indicated before, it seems to me this hearing is different in many important ways than those involving persons not confronting the accusation.

First, I think most importantly is Mr. Chermak's appearance here.

I frankly stated, I recommended to him that it probably would be better for his personal well being if he did not attend the hearing, but he stated he wanted to make a statement to the Committee and he is to do that very thing.

I want to say, with respect to the charges before us, I think the evidence will show that on April 13th, 1973, the only date with which we are concerned in this hearing, that Mr. Chermak was at Universal Studios for less than two hours. He spent half that time having lunch, the rest of the time was spent visiting his office, picking up mail, making a couple of phone calls, and he did not perform any services or render any work at all on that day. And that, indeed, the studio did not consider that he returned to work until subsequent thereto.

So that on the date we're involved with, April 13th, 1973, Mr. Chermak did not cross the line for the purpose of rendering services.

MR. LAVERY: Mr. Mendonsa?

MR. MENDONSA: Well, we'll call our next witness, Mr. Sidney Ellis.

SIDNEY ELLIS

called as a witness on behalf of the Writers Guild, testified as follows:

EXAMINATION

BY MR. MENDONSA:

Q Would you please state your name for the record?

A Sidney Ellis, S-i-d-n-e-y.

MR. MATZKISH: Mr. Chairman, maybe I paused too long. I did not finish my statement. It was a pregnant pause. Maybe it was a pause introduced by the fact that what I was about to say is the heart and substance and meat of what our defense is, and that is, that the reason we're here, the only reason is because of the actions of paid personnel of the Guild. That's the sum and substance of Mr. Chermak's defense, which I regard to be meritorious.

I think that he will state to you, and I don't want to anticipate his testimony, that he will state to you a course of conduct on the part of personnel of the Guild that is grotesque in the extreme and that it subjected him to intolerable discrimination. I think it put him into a position that was

untenable and a position which left him with no choice but to do what he did.

Again, I'm going to let him say that, but I did want to give you some preview what it is.

That apart from the day that we are involved with, April 13th, he just didn't happen to work.

Overall, over and above that, overriding is why he went into the studio on that day and subsequent days.

Q BY MR. MENDONSA: Now, would you please state and spell your name for the record?

A Sidney Ellis, S-i-d-n-e-y, E double l-i-s.

Q Mr. Ellis, are you a member of the Writers Guild of America, west, Inc.?

A I am.

Q Approximately how long have you been a member of the Guild?

A Approximately 13 years.

Q During the recent strike, did you serve on what is known as a Strike Investigatory Committee?

A I did.

Q Approximately what period of time did you serve on that Committee?

A After the first week of the strike until the end of the strike.

Q Somewhere around --

A Sixteen weeks.

Q Somewhere after March 7th?

A Yes.

Q What was your position on that Comittee?

A I was an investigator.

Q Could you give us a brief description of your duties as an investigator?

A Yeah.

We would get reports from picket captains about people crossing picket lines and we would try and determine if this was true, and if we could, get at least two witnesses to attest to the fact that it was true and turn in a report to the Disciplinary Committee and they carried on from there.

Medical excuses would come into our Committee and we would, in certain cases, call the doctor to ascertain the fact that the medical excuses were valid.

We would send out executive letters to people to try and get them to come in and picket.

Q And sometimes would you have conversations or telephone conversations?

A Yeah.

Q With any individuals?

A Yeah. Sometimes we get reports of somebody being at work in a studio and we would call the studio to see if we could speak to them on the telephone and determine if they were there.

Q Directing your attention to April 13, 1973, did you have occasion on that date to have a telephone conversation with Cy Chermak?

A I did.

Q Did you call him or did he call you?

A I called him. He returned the call.

Q Do you recall where you placed the call?

A I called him at Universal Studios.

Q And he returned the call the same day?

A Yes; I would say within the hour.

Q When he returned the call, did you recognize the voice?

A I haven't had that much personal contact with him, but I didn't see any reason to doubt that it was. He identified himself as Cy Chermak. I identified myself to him.

Q Did he indicate to you that he returned the call?

A That is correct.

Q Could you tell us now what he said to you and what you said to him in that telephone conversation?

A Yeah.

I called Mr. Chermak to assign him to telephone duties at strike headquarters, inasmuch as he had a medical opinion that said he could not do picket duty and, as a custom, we would offer members who could not picket work at strike headquarters.

And the assignment that I had for Mr. Chermak was for Monday, the following Monday.

And he informed me that he could not report to strike headquarters for duty there because he would be in his office at Universal working.

Q All right.

No further questions.

CROSS-EXAMINATION

BY MR. MAIZLISH:

Q What time did you call Mr. Chermak?

A I really can't remember. It may be on the report that I wrote up, but offhand I don't know the time of day it was.

Q Do you have that report to refresh your recollection?

A It says here the time was 2:25 P.M.

Q That's when you talked to him?

A Yeah.

Q Okay.

A Apparently.

Q Did you call him around 1:30, something like that?

A I would assume so because this was written immediately, as my custom.

To get the hang of it, as soon as I would finish a call, I would put down the substance of the call.

Q Who did you leave a message with?

A Somebody that identified himself as his secretary.

Q Did you say the purpose of the call?

A No, I don't believe so, but I left my name, that I was a member of the Writers Guild of America and left the number of the strike headquarters.

Q You did specifically identify yourself as WGA of America?

A Yes. I think I may have said Displinary Committee, or Investigating Committee.

Q And Mr. Chermak called you right back?

A He returned the call, I would say within the hour.

Q Did you have any discussion with him about whether he was working that day?

A No, I don't believe so.

Q So, you have no knowledge of his performing any services on April 13, 1973; is that correct, Mr. Ellis?

A That would be correct, to the best of my recollection.

Q Now, with regard to Monday, even though that's outside your purview, since you gave some testimony concerning the -- I would kind of like to get the conversation as accurate as possible.

Is it possible that what Mr. Chermak said to you was that he was probably going to go to work on Monday?

A No. He said he was going to be in his office on Monday and that he could not report to --

If I remember almost the exact words, he said, "Don't expect me Monday."

And I said, "Why?"

And he said, "I would be in my office working."

Q All right, fine.

Now, was that the first contact that you had with Mr. Chermak, that conversation on April 13th?

A You mean in terms of ever having talked with Mr. Chermak or --

Q In terms of the strike.

A First and only.

Q All right, sir.

You weren't part of the picket line, or anything like

that; you had not observed him cross the picket line, or anything at all in terms of anything like that?

A No, I did not.

Q Did you have any cognizance of what the medical problem at that time was with regard to Mr. Chermak?

A I believe it was -- yeah -- I saw a letter from his doctor and also one of my coworkers on the Committee called Mr. Chermak's doctor to confirm it. I think it had something to do with arthritis, arthritis of the feet.

Is that it?

Q But that particular thing, it didn't have anything to do with any problem arising out of tension or anything at all, or anything of that sort?

A Not that I can recall.

MR. MAIZLISH: Fine.

No further questions.

MR. LAVERY: No questions.

Witness is excused at 3:35 P.M.

MR. MENDONSA: My next witness is a member of the staff. So, it might be a good time to adjourn and give the reporter a break.

(Brief recess.)

/ / /

CAROLYN CROCKER

called as a witness on behalf of the Writers Guild, testified as follows:

EXAMINATION

BY MR. MENDONSA:

Q Miss Crocker, are you presently employed by the Writers Guild of America, west, Inc.?

A I am.

Q Approximately how long have you been so employed?

A Approximately seven weeks.

Q What is your position with the Guild?

A Secretary to Allan Griffith, SEC Executive Director.

Q Now, Miss Crocker, you are familiar with the Guild's rule that requires members to inform the Guild if they intend to cross the picket line, or enter a struck premises?

A Yes.

Q And can you tell us to whom requests are made in the Guild in order for an individual to enter a struck premises?

A All such requests are made to the office of Allan Griffith.

Q Now, is there a record kept of such requests?

A Yes, either a photocopy or a duplicate typed copy of the request.

Q Do you keep a record of all passes that would be issued to members making such a request?

A Yes, I do.

Q And at my instruction, did you check your records

to see if a member by the name of Cy Chermak has ever made a request or was issued a pass to enter a struck premises?

A Yes, I did.

Q And would you tell us what you found?

A I found no such request, no pass was ever issued which we have on record.

MR. MENDONSA: I have no further questions.

CROSS-EXAMINATION

BY MR. MAIZLISH:

Q I gather from what you said, ma'am, that at the time we're concerned about, which is April, 1973, you were not an employee of the Writers Guild?

A No, I was not.

Q Who was maintaining the records at that time?

A Mr. Griffith and his then secretary, Mary Hill.

Q Is she still here?

A I searched through all those records, however.

Q Now, if I were to tell you that a client of mine Gene Roddenberry, who is a member of this Guild in good standing, called John Feurer and asked to enter a struck studio, Mr. Feurer told him that he could, would that surprise you without ever having gone through Mr. Griffith?

A It would surprise me.

Q Was that something that never happened while you were here?

A Not while I was here.

What I was told when I came here, I took over very

precise questions. I took over the telephones; I had to be able to answer the questions of the writers calling "May I cross the picket line?"

Q But, you have no personal knowledge, I take it, have you not, of the kind of instance I mentioned to you?

A I have no personal knowledge.

Q Whether or not the incident that I referred to has ever occurred?

A No.

Q Mr. Mendonsa had intended to call Mr. Griffith, but I've asked him to call him. Mr. Chermak informed me that he had written a letter to Mr. Griffith around the first part of April referring to, amongst other things, a couple of problems, wherein Francy Inc., which is a company owned by Mr. Chermak, now signatory to the agreement, interim basic agreement, and referring also to a telephone call that Mr. Chermak placed to Mr. Griffith that was not returned.

Do you think you could find that letter?

A There are some pieces of literary material which were sent in at the request of the Guild referring to the strike and a great many letters referring to the Guild. I've been through that three times a day returning scripts to people who want them now because they can submit them. I have never seen Mr. Chermak's name in the list. However, I can go through the pile again, if that is your wishes.

Q We wished Mr. Griffith to be a witness. Mr. Chermak now does not have an office copy of the letter with him, but he does recall the substance of it, and the substance of

it was related to a couple of properties owned by the production company that he is the president of, and it also indicates a fact that he had placed a call to Mr. Griffith that had not been returned. Do you have a phone log of Mr. Griffith?

A I do not. I was not here at this time.

Q So, you couldn't look up the phone log to see if it is a call made?

A I could not.

Q I would appreciate if when you go back to the office to look for the letter that Mr. Chermak wrote Mr. Griffith.

MR. MENDONSA: Can I ask at this point what the relevance is?

MR. MAIZLISH: Well, there are matters of relevance. The first is in regard to Mr. Chermak attempting to talk to Mr. Griffith about going to a studio and the second relates to the matter that we haven't yet quite come to grips with, but I have alluded to several times, which is Francy Production, Inc., a corporation formed in 1969. And, as I say, is now a signatory to the 1973 agreement, but which was refused permission to sign the agreement.

But I want to indicate in that regard, that Francy Production, Inc. was the owner of various literary properties and was seeking -- we intend to show that Francy was seeking to enter into deals with other than Universal and become a signatory of the agreement. So this could be corroborative of the fact that Francy owned other properties.

MR. MENDONSA: Well, does the letter state in there that he intends the work for Universal?

MR. MAIZLISH: I don't believe so.

MR. MENDONSA: Well, I really don't understand the relevancy to the attempted telephone call.

MR. MAIZLISH: It was not a question of working for Universal, the question of going to Universal.

MR. MENDONSA: Well, was that part of the letter?

MR. MAIZLISH: At no time during the course of anything involved in this proceeding did Mr. Chermak work for Universal. There hasn't been any proof produced to that effect.

MR. MENDONSA: Well, does the letter state that, something to the effect that he was going to enter into the premises of Universal?

MR. MAIZLISH: No; the letter does two things. It refers to the Francy properties and it refers to the fact that Mr. Chermak would like Mr. Griffith to return the phone call that he made.

MR. MENDONSA: Fine. I take it that the phone call you are talking about is that reference to his request to enter a struck premises, but that is not reflected in the letter. So, I don't see the relevancy of that to the letter. The only other portion that might be of some relevance was the term Francy Production, which again I don't see the relevance.

MR. MAIZLISH: Since we don't have the phone log, I think the letter is reflective that he did phone Mr. Griffith and that Mr. Griffith did not return the call and it will give it content.

MR. KAUFMAN: In this letter, did Mr. Chermak refer specifically to the reason that he wanted Mr. Griffith to return his call?

MR. MAIZLISH: No.

MR. MENDONSA: I have no objection to Miss Crocker checking for the record to see if we have a letter, but if she cannot find a letter, we would like to reserve objection to the introduction.

MR. LAVERY: I have a question.

Counsel did say that at no time, I take it at no time in April was Mr. Chermak working with Universal.

MR. MAIZLISH: At no time in the period that either anti-dates the date of this charge, which is April 13th or on April 15 was he working for Universal.

MR. LAVERY: At that period, were there any financial transactions between his company and Universal?

MR.MAIZLISH: In what way, sir; you mean was he receiving any money?

MR. LAVERY: Yes.

MR. MAIZLISH: No.

MR. LAVERY: Do you have any other questions?

MR. MENDONSA: I have no further questions of the witness.

MR. MAIZLISH: I have no further questions.

MR. MENDONSA: At this time, Mr. Maizlish, I would like to simply agree to incorporate into the record the Constitution and By-Laws effective as of January 2, 1973, and the Rules for the Conduct of Members on Strike dated February 20, 1973, and the Strike Order dated March 5, 1973.

The Committee is very familiar with the documents and I don't believe they have to be physically introduced into this particular record. They can simply incorporate them.

MR. MAIZLISH: Is the Constitution the one of December '72 that I have?

MR. MENDONSA: Yes. The effective date of that Constitution was January 18, 1973, ratified by the members.

MR. MAIZLISH: I have no objection with regard to the rules and the exhibit subject to the statement I made before. In other words, I'm not going to be deemed to have conceded that those were properly adopted. I have no problem with that otherwise.

MR. LAVERY: So submitted.

MR. MENDONSA: I have no further witnesses, but I do have a couple of other documents that I would like to introduce into the record and may the record reflect that I'm handing a copy of the first document, which is a one-page document, which is headed Writers Guild Credit Card No. 1, in the upper left-hand corner Cy Chermak, and I'll hand it to Mr. Maizlish.

At the same time, I will hand Mr. Maizlish a copy of Mr. Chermak's work record with the Guild, which is an eight-page document.

MR. MAIZLISH: Is this to be received into evidence?

MR. MENDONSA: I will ask for your stipulation that these are the records kept in the normal course of business and then I will enter them into evidence.

I am presenting the work record now and I will hand it to Mr. Maizlish.

MR. MAIZLISH: I have no problem with them.

MR. MENDONSA: All right.

Will you stipulate they are records kept in the

normal course of business of the Guild?

MR. MAIZLISH: Yes.

MR. MENDONSA: All right.

Then I will offer those as Guild's Exhibit 1, the credit record and as Guild's Exhibit No. 2, the work record of Mr. Chermak.

(The documents referred to were marked Guild's Exhibits No. 1 and 2 respectively for Identification.)

MR. MAIZLISH: John, would it be appropriate for me to make a comment on one of these exhibits?

Mr. Chairman, may I make a comment regarding one of these exhibits?

MR. LAVERY: Yes.

MR. MAIZLISH: I would refer the Committee to the writer's credit record and there is two points I would like to make.

About midway down the page you will see 12/59. Mr. Chermak did this play for Screen Gem and he had been working throughout that year on a busy schedule writing a number of scripts. That was the time of the strike, and Mr. Chermak was in the strike and I'm sure most of you know as a result he was totally honoring the strike and that as a result his relationship with Screen Gem was severed and he did not write again until some 14 months later, February 1961.

The second point is the last credit Mr. Chermak received is seven years ago, 1966. That's about five years better than Mr. Webb. Mr. Webb received a credit with respect to O'hara Treasury Agent. Mr. Chermak had not received a credit in seven years. Apart from that credit, you have got to go back to

almost nine years to when he received a credit before then.

MR. LAVERY: Mr. Maizlish, you said 12/59 and through '61. Are you suggesting this is some kind of a restriction on the part of Screen Gem because of a writer's loyalty to the Guild?

MR. MAIZLISH: Why don't I let Mr. Chermak answer that?

MR. CHERMAK: The suggestion is stronger than that. The suggestion is that I was discharged from my job at Screen Gems because I would not write during that strike, which you remember as well as vividly as I do, and that although it was unspoken, a very hard thing to prove, I went from a working writer to a blacklisted writer, and it took 14 months before I got my next writing job.

MR. LAVERY: Would you normally, if the strike hadn't interfered, continued on assignment?

MR. CHERMAK: I was working then as the story editor of Rescue 8 Screen Gems for Bert Leonard, and although I was scheduled to move through the organization of Naked City, and I was offered my choice in December, January 1st or January 15th, I believe it was 1960 -- that record really is rather clear -- after the strike, it was 14 months before I received another writing assignment.

I will refer to that in the statement that I'm about to make. I was trying to recover for myself.

MR. LAVERY: But, I'm outraged by the fact that somebody at Screen Gems was saying you were a scab and could never work for them.

MR. CHERMAK: I don't believe anybody said that.

I was asked to write. I refused to write. I never

wrote again at any major studio or anywhere else in the city for 14 months.

MR. MENDONSA: May I ask over what period, what 14 months are we talking about?

MR. MAIZLISH: December 1959 to January 1961.

MR. CHERMAK: The strike went on five months.

MR. LAVERY: May '60 to 2/61.

MR. CHERMAK: We're indicating here only that we fought our battles also.

MR. MENDONSA: Well, I don't know if this is the proper time to cross-examine on that.

MR. LAVERY: I thought we better dispose of these things.

MR. MENDONSA: It probably should be made on the exhibit.

However, essentially the issues have been raised as to whether or not there has been any writing. I would like to go into the matter, but whether or not we want to do it at this point or not, I leave it up to you. As far as our case is concerned, we rest at this point.

MR. MAIZLISH: Mr. Chairman, perhaps I'm unencumbered by knowledge or at least uninformed, but I was under the cracker box law of theory that it requires two witnesses, some corroboration with regard to crossing the picket line. Is that an erroneous premise?

MR. MENDONSA: That is an erroneous premise.

MR. LAVERY: I don't think there is any law about that. I thought you were defining an act of treason.

MR. MAIZLISH: No; no, not that or perjury.

It was my understanding that the strike rules

called for observation by two people.

MR. MENDONSA: May I clarify? The witness did make some, alluded to that, which at that time was a goal more than anything else, that we would like to have two witnesses to corroborate. Now, we never had a rule of the Guild with that necessity for prosecution.

MR. MAIZLICH: Mr. Mendonsa, was there ever anything in writing regarding having two people observe crossing a picket line, whether it be a memo or verbal?

MR. MENDONSA: To my knowledge, there was never anything in writing or verbal instructions.

MR. MAIZLICH: I do now have some motions that I want to assert with some vigor. In fact, all the vigor that I can command.

The first is that the charge against Mr. Chermak with regard to Section 13 be dismissed on the ground that there is no evidence whatsoever, not one iota of evidence that he violated some provision that he went on the premises, assuming he went on the premises, for the purpose of discussing the sale of material or the contract of employment, or that he went on for viewing any film or stock footage, whether it be documentary -- in other words, he went on the premises of Universal for any purpose.

MR. LAVERY: Mr. Mendonsa?

MR. MENDONSA: A simple reading of 13 says that if the individual intended to enter into a struck premises for any reason, that he would have to inform the Guild. The reason for that is, at that point if the reason was good enough, he

would be issued a pass. In this case, there is no evidence to the contrary.

MR. LAVERY: If there is no questions from the Committee, the motion is denied.

MR. MAIZLISH: I would move further to strike all of the charges on the ground that the only evidence is the single testimony that Mr. Chermak visited the premises of Universal on April 13 and that there is no evidence that he has performed any act of work or any other act that was prejudicial to the welfare of the Guild, or that he -- and certainly not that he went there to perform any kind of writing services, which, as I indicated to the Guild in the answer of the NLRB, as indicated is the purpose of the disciplinary proceedings. But I particularly stress the fact that he performed no services of any kind. I'm not limiting myself to writing. There is no evidence that he performed any services of any kind. For that reason, I request the dismissal, individually and collectively as to each of those charges.

MR. LAVERY: Mr. Mendonsa?

MR. MENDONSA: The only evidence with respect to his working was to his comment made on the telephone to Mr. Ellis, that he was intending to be working on the 15th, which is Monday. The telephone call was made to Universal Studios. Mr. Chermak did return the call. I don't believe the evidence is clear as to whether or not the call was returned from Universal Studios or not, but any point, I think at this point the Committee should be able to draw the conclusion that he was in fact performing work, or was at least in the premises for the

purposes of performing work for Universal, and there is nothing contrary to the evidence.

MR. LAVERY: Mr. Maizlish?

MR. MAIZLISH: Yes.

I think it is important to emphasize, I don't think it can be stressed too much, all we're interested in this hearing is April 13th. We're not concerned with any date subsequent to that. So, April 16th, or anything else is simply not within the scope of this hearing. We're concerned with what Mr. Chermak did on April 13th.

MR. LAVERY: Before making a ruling, I should point out that you should take none of these rulings as a preview of the ultimate Committee decision. The rules on this is simply procedure.

MR. MAIZLISH: Mr. Chairman, I would request, if I might -- I know we had a recess a short while ago -- I would prefer to have a short recess with Mr. Chermak. May I have a short recess?

MR. LAVERY: Yes, you may.

(Whereupon at 4:20 a brief recess was held and at 4:30 the record recovened.)

MR. MENDONSA: We're ready. May I make a comment?

I am instructed Miss Crocker looked over all her records and finds no letter or material submitted by Mr. Chermak.

Now, I can bring her in to testify to that, but that's the way it stands.

MR. MAIZLISH: I will accept that statement as represented.

Mr. Chairman, in view of the fact that, as I say, we had no advance notice of the witnesses as to what they intended to say, so obviously, I had no idea of going into matters of importance, I would appreciate the Committee giving us permission to file a copy of that letter.

MR. LAVERY: When?

MR. MAIZLISH: We could do so by tomorrow.

MR. LAVERY: John, do you have any comment on that?

MR. MENDONSA: Well, as I said, I wanted to reserve my right to object to the Committee and now I --

MR. MAIZLISH: Perhaps I should let Mr. Chermak say what he said in the letter.

MR. LAVERY: I think the opinion of the Board is that we'd like to push on with the matters before us. It is not necessary to hold in abeyance any formal determination on the letter, but I think now that we're all here and today is Thursday, we ought to have it presented through Mr. Chermak.

MR. CHERMAK: One of the statements made by a witness before this Committee was that before any writer crossed any picket line, or any member of the Guild crossed the picket line, one of the things he must do is get permission from the office of Allan Griffith, and that Allan Griffith was the only person who could give this permission.

The purpose of introducing the letter was to indicate that I have on paper not only a letter to Mr. Griffith indicating that he has never returned my phone call, but asking him to again return my phone call and to make it very clear that to get permission from anyone who refuses to speak

to you --

MR. LAVERY: John?

MR. MENDONSA: Well, again, it was not difficult, apparently, to send a letter, and I suspect that if there was a request to cross the line, I would think it would be included in the letter. So, I don't know what the relevancy of the attempted telephone conversation and to reiterate in the letter that he did not return the call. If there is nothing in the letter indicating that he did not return the phone call, I don't see how it will add to this.

MR. KAUFMAN: I'm quite willing to accept that the writer said that in the letter, even if it is not explicit. However, there is a thing I would like to ask, if I may.

I understand that you went to the studio to pick up your mail.

MR. MAIZLISH: Mr. Kaufman, may I suggest -- and I think Mr. Chermak can respond -- the next thing I was going to suggest is to let Mr. Chermak make his statement, and I think you may find the answer. If you don't, please repeat your request.

MR. LAVERY: I don't know what the finding of the Committee is with respect to the actual letter being submitted later, but I think we are in agreement to push ahead now.

MR. MAIZLISH: Well, I would like to have the opportunity to submit that letter. So, I would ask the chairman for a ruling on that.

MR. KAUFMAN: Let us caucus then.

MR. MENDONSA: May I speak?

From what I understand, the only thing in the letter

that is relevant to this proceeding is the fact that he made an attempt to make a telephone conversation with Mr. Griffith and that Mr. Griffith didn't return the call. I'm perfectly willing to accept that. I don't know what more the letter is going to tell us, probably nothing more.

MR. MAIZLISH: If he accepts that, that's fine.

MR. LAVERY: I think it is the consensus of the Committee to accept Mr. Chermak's version.

MR. MAIZLISH: Okay, fine.

As I indicated before, Mr. Chermak really is here against my recommendation. With the Committee's indulgence, and I think it would be far easier on him, and I think it would give you a better picture if you permitted him to testify with a narrative statement rather than my questions.

MR. LAVERY: Okay.

MR. MENDONSA: I have no objection if you speak slowly.

CY CHERMAK

called as a witness on behalf of the Respondent, testified as follows:

THE WITNESS: Mr. Chairman, Gentlemen.

It has been said that regret is the legacy of missed opportunity.

In the nature of things, it clearly appears that my only moment to rectify a grievous wrong done to me at the source of occurrence -- the Writers Guild -- is at this hearing today before the Board. This is my chance to tell, as

completely and truthfully as I can, what I did and why I did it. I, therefore, elected not to avail myself of legal avenues to preclude this hearing from taking place.

I made the decision to proceed in full avenue and awareness of the atmosphere and conduct that has permeated these proceedings from their very inception. I refer, among other things, to the fact that notice of the charges against me was given to the general media by Guild spokesmen prior to any notification to me and that my apprisement of the Guild's action came by listening to the Saturday night news on which I heard my name; that the inflammatory, defamatory and gratuitous public announcement combined accusation, conviction and even punishment, referring, as you will recall, to "A roll of dishonor" and a listing "in perpetuity"; that an anonymous Guild spokesman characterized me as a "pariah"-- which I later learned was the correct pronounciation when I looked into a dictionary -- that two days later the then president of the Guild, apparently feeling that the coffin required a final nail, stated an article appearing on the front page of the Hollywood Reporter in regard to me and others that -- and I quote -- "Of course, they are guilty" -- a statement which was repeated again and again that week; that intense feeling and emotion that a pound of flesh should be extracted from anyone who crossed a picket line pervades the membership; that, to my knowledge, all those who have been charged with that offense and as to whom a decision has been rendered have been fined, and expelled from the Guild.

And these are only the public facts.

The private facts are far more ugly. My wife, my child and I have been subjected to an almost unspeakable campaign of vilification and harassment. For example, I found myself exposed to the horrifying experience of having a member of the Council of the Guild -- Brad Radnitz, by name -- threaten my wife by telling her that my going to work would end my career and that the Guild would not permit writers to work for me in the future. I, myself, received intimidating calls from officers of the Guild. The end result was that both my wife and I ended up under doctor's care and I was finally hospitalized.

Why did all this happen? Why were charges brought against me? Why was I crucified, publicly and privately? Why are we all here today?

In my opinion, it is because the hired personnel of the Guild made a colossal blunder. And I am going to put the responsibility for my crossing the picket line right where it belongs -- with them.

Gentlemen, I have been a member of the Writers Guild for over 15 years. I have paid my dues, financially and otherwise.

Mr. Maizlish has read my statement slowly, line by line.

In 1960 I served in the trenches as you did. You are not looking at any W. Hermanos. To the contrary, I was in fact discharged from a position in a production capacity because I would not write during the strike of 1960.

Now, my career evolved from writing to production.

In 1968 -- five years ago -- I became executive producer of "Ironside". I have continuously functioned in that capacity since that time. I am doing so today. I expect to be doing so in the future. I also functioned for two years as executive producer of the new doctors segments of "The Bold Ones" series. To my knowledge, I have not received a writing credit since 1967 -- '-6 in the paper -- more than a half dozen years ago. And I have no reasonable expectation of receiving any writer's credit in the foreseeable future.

Nothwithstanding the nature of the position I had occupied for half a decade and anticipated continuing to occupy in the future, I, nevertheless, determined to honor the strike. I did in fact observe the picket line. You find nothing about my crossing any picket line in March because I did not do so. Nor did I do so in April until April 13, the day before the charges were announced against me. Thus, for a period of weeks, at considerable personal sacrifice, I refrained from fulfilling my contractual commitment at Universal and instead went and stayed on strike even though I was fully cognizant that the agreement already made with the independents did not contain any meaningful benefits for me personally, and that there was no hope that the agreement with the majors would be any better.

And I would have stayed on strike and not have gone to Universal on April 13 if the hired personnel of the Guild had not discriminated against me, prevented me unjustly from making any kind of livelihood and literally forced me to return to Universal.

This is what the salaried employees of the Guild did.

Several years ago, long before the strike was a gleam in anyone's eye, I formed a corporation called Francy Productions, Inc. It was and is an ongoing active California corporation. I entered into a personal services contract with Francy and it in turn loaned out my services on an exclusive basis to Universal. Francy, however, did other things as well. It acquired and owned various properties written by other persons.

When the strike came and I went off salary, I naturally looked around for other ways of earning a living. One of those ways was to enter into a development deal with a network for one of Francy's properties. The deal called for Francy to receive monies up front even though my personal services would not be involved -- at least at the outset. So that Francy could make the deal and hire otherwise striking Guild members to work on the project and receive compensation, I requested my attorney to make Francy a signatory to the new 1973 agreement that had been negotiated with the independents. He later phoned me and told me that Mr. Mike Franklin had refused to permit Francy to sign the agreement. I asked him to persevere. He then told me that he had made it clear to Mr. Franklin that Francy only wanted to be able to make this other deal: That it would not involve my personal services; and that we would not view it as a sanction to go back to Universal. Mr. Franklin still said no.

I was astonished. Here was my one opportunity to make some money and to do it in accordance with the new agreement and hire Guild members and the Guild employees were

flatly refusing.

Now, Gentlemen, I understood that the Guild was trying to draw some distinction between production companies and loan-out companies and that it would not sign loan-out companies which it considered Francy to be. I also understood that it was a distinction without a difference and that the Guild position was unjustified in fact and law. We all know that no matter how you cut it, all of the companies are really the same. They all derive their financing from either a studio or a network and that goes for Quinn Martin on down.

Now, with considerable risk of subjecting myself to an additional charge, that of over writing, I would like to sum up the position in which I found myself. I was honoring the strike, yet I could not seek employment from the already signed independents, as could all other members of the Guild. I should amend that to say most other members of the Guild, including the members of the Negotiating Committee.

I was not permitted to cross the picket line to perform producing services at Universal, yet I knew that other producers were being permitted to cross the line at this same studio to perform producing services. I was told that these other men were allowed to cross the line because their company or companies were signatories. I asked that my company be allowed to sign. When I was refused, I offered to stipulate that my services at Universal would be excluded from consideration. I asked only for the same opportunities that were given to Quinn Martin, Norman Lear, Persky and Denoff and a large number of others. Again I was refused.

I looked at the other executive producers who owned companies and were working. I looked at writers who were working away at scripts. I understand some 300 were working when the strike finally ended. And I looked at the incredible and cavalier treatment I had received from the Guild.

I knew my attorney had advised Mike Franklin that refusal to allow Francy to sell a property not involving my services to someone other than Universal might compel me to return to work.

And to paraphrase that document that had its 197th birthday yesterday, it appeared to me that the course of human events necessitated I take some action to extricate myself from this untenable position in which the Guild employees had placed me.

On April 13th I went to Universal for a couple of hours. Since the charges by their very nature and time sequence could relate only to April 13, 1973, I suppose that the short answer to the charges is that the studio did not consider that I returned to work until Monday, April 16, two days after the charges were filed and that all I did on April 13 was to go to my office and have some phone conversations and eat lunch. I was there less than two hours. Since many members of the Guild were permitted to visit their offices during the strike, it would seem to me that viewing strictly the four corners of the charges, I was not guilty of any heinous crime. If anything, my defiance was symbolic.

I was horrified to discover that the day after I spent two hours at Universal, a press release was released to

the local newspapers, that I was referred to on the Saturday news as a pariah, that the Sunday Times carried an article saying that my name would be on a roll of dishonor in perpetuity.

After I crossed the line, the paid Guild employees, perhaps in reaction to my rebellion against being deprived of any opportunity to earn a living in this industry, decided that they would reverse their stand and sign companies such as Francy Production, and, indeed, they proceeded to do so, as you gentlemen know, at a full scale rate.

When this occurred, Mr. Maizlish immediately requested that Francy be permitted to sign the agreement, and on May 4, 1973, Francy Productions became a signatory to the 1973 agreement.

Parenthetically, I think it is well to realize that throughout this matter I have followed an independent course of action. Universal did not induce me to go back to work, the Guild employees did; Universal did not supply me with counsel, I chose my own; Universal did not wish Francy to sign the 1973 agreement -- but that is what I wanted to do all along and what we did do; Universal did not ask me to attend this hearing. I believe, in fact, I am the only one from Universal who has appeared. And I think that Universal would not have been unhappy if I had testified as others did against the Guild in the NLRB proceeding, but I did not do so.

What I did do, was to revolt at grossly discriminatory and punitive treatment; treatment which the Guild itself rescinded and revoked unfortunately after this horse had left the stable.

Now, I dislike being treated in an illegal and immoral manner because I was boxed into a corner by Guild employees. I took the only course of action left open to me. Please try, if you will, to turn back the clock and put yourself into my shoes and ask if you would have acted differently.

Now, I have given you the facts as fully as I can. The only thing that I have omitted are my opinions regarding the motivations of those who sought to foreclose me from earning a living in this business and perhaps those views are best left unspoken.

I ask you only to understand these simple facts. Had the behavior of the Guild employees toward me been different, so would have been my story. Had they not decided to let writers work but make producers strike, it would have been different. Had they not decided to let some producers work, but make other producers strike, it would have been different. Had there not been arbitrary, discriminatory, punitive, and worst of all, had they anticipated that we were one membership, that there was one strike, and that no one, but no one crossed any picket line anywhere, whether to go to work for a signatory or not, you would not be here, and I would not be here, and it would have been very, very different.

In all events, I do not want to be fined or expelled from this Guild. I do not believe that I deserve to be fined or expelled.

I have maintained silence and lived for several months with a cloud over my head. I ask you gentlemen, now, in the interest of fairness, to remove it.

MR. MENDONSA: May I ask a few questions?

MR. LAVERY: Yes.

CROSS-EXAMINATION

BY MR. MENDONSA:

Q Mr. Chermak, this deal that you had, who was that with? You had a deal you mentioned.

A An opportunity mentioned.

Q You had an opportunity to make a deal. Who was that with?

THE WITNESS: Do you want to disclose it?

MR. MAIZLISH: It was one of the three networks.

Q BY MR. MENDONSA: Did you know at that time that we were in fact against the networks?

A I don't believe we were in fact on strike against the networks.

Q Can you tell us when this was?

A It was before April 13.

Q Well, the Guild went on strike against all the networks April 11 and in fact went on strike against a couple of networks prior to that.

A But signatories to it, the independent signatories to the Guild agreement who were going to live up to the Guild agreement were allowed to develop projects for the networks before that.

Q I am not sure that I know the answer to that question. Do you have any information to that effect?

A Every independent who signed the agreement was

developing it for one of the three major networks.

MR. MAIZLISH: Let me add to that, Mr. Mendonsa.

At the time that I made inquiry of Mike Franklin, I also requested that Tony Wilson, who is a writer-producer, the owner of Culsan, be permitted to sign the agreement. The answer with respect to Mr. Wilson was the same with respect to Mr. Chermak. It was no. He would not be permitted to sign.

When Mr. Chermak visited Universal and the charges were brought against him, Mr. Wilson requested that a telegram be sent to the Guild saying that we were going to deem ourselves as signatory to the agreement; that he would otherwise take appropriate action if the Guild failed to sign an agreement with him. After some days in negotiations involving both myself and Harold Green, who is Wilson's agent, Mike Franklin and the other people here at the Guild reversed their position that they had held with respect to Mr. Chermak and Wilson and agreed that Mr. Wilson could sign. Mr. Wilson had the same kind of arrangement that Mr. Chermak contemplated. Mr. Wilson had it with a different network and he thereupon proceeded to earn a livelihood after he signed the agreement with that network.

MR. MENDONSA: When was that agreement?

MR. MAIZLISH: Mr. Wilson signed the agreement in April, 1973.

MR. MENDONSA: When was it, April 15th?

MR. MAIZLISH: Yes. It was after April 15th.

I might add, my letter of transmittal in the 1973 agreement on behalf of Francy Production is dated May 4. The agreement is dated April 27th, and purports to be effective as

of March 6th.

MR. MENDONSA: So, am I to understand that the agreement was reached with respect to Mr. Wilson's company at the same time as Mr. Chermak's company?

MR. MAIZLISH: No. I made the request simultaneously on behalf of Mr. Wilson and Mr. Chermak. After I was initially turned down, Harold Green asked me if I would make the request not only on behalf of Mr. Wilson, but on behalf of two other clients of his. So, at the second time around, I made the request with regard to Mike Franklin with three people. We were turned down. Mr. Chermak then visited Universal. The charges were brought against him the day after he spent a couple of hours at Universal. The following week I had discussions, telegrams were sent to the Guill, discussions with Mike Franklin. The Guild reversed its position with respect to what it termed loan-out companies and it regarded closing the loan-out company, even though the company hired other writers and the hired material and it regarded Francy as a loan-out company, even though Francy hired material from others. Francy was more than just a personal services.

What we have here is a situation where Cy tried to sell property that was written by somebody else and needed further writing by Guild members that would not involve his personal services because he was under exclusive contract to Universal, to a network, and the Guild refused to make Francy signatory to the agreement until after Cy went in.

MR. MENDONSA: My question is, was the Chermak company treated any differently than Mr. Wilson's company?

MR. MAIZLISH: No, it was treated the same way, you know, until the time Mr. Chermak visited Universal.

MR. MENDONSA: Then, as far as you know, all loan-out companies were treated the same way until you reached an agreement with Mr. Franklin with respect to Mr. Wilson's company?

MR. MAIZLISH: Right, and I can say to you that Mr. Wilson contemplated the same action that Mr. Chermak took, and he so indicated.

MR. MENDONSA: But, there is no contention on your part that Mr. Chermak was being discriminated against as an individual in this matter?

MR. MAIZLISH: Oh, certainly, because I sat at this table surrounded by all sorts of people here whose company had dealed.

MR. MENDONSA: Loan-out companies?

MR. MAIZLISH: In substance, they might have been called production companies, but his company had deals that I knew of, personal knowledge, and I was going to testify. I guess I'm doing it now, that their deals in substance were no different whatsoever from the kind of operation Francy Production was engaged in.

MR. MENDONSA: All right. Now, I'm assuming that you have testified and I feel cross-examination in point. If there is no objection to that, we might as well proceed. Since Mr. Chermak testified to concerning the conversations Mr. Maizlish had with Mr. Franklin, I think it is proper to do so.

Let me ask you, Mr. Maizlish, then, did Mr. Franklin give you reason as to why he would not sign Mr. Chermak's company at the time that you made the first request?

MR. MAIZLISH: Mr. Franklin said that he considered Francy and Culsan to be loan-out companies and distinguished from production companies. I said to Mr. Franklin that he was getting into a can of worms that was just simply an impossible one to draw a line. At the heart, Mr. Chermak said it is the base of all these deals that the finance committee is well aware of, no matter how you pose these things, joint venture, writer, actors above the line -- the substance is that you've got a network financing the deal for you and you may or may not define certain limits. It is true on all people. It is true of Quinn Martin with respect to the deal at Warner Brothers; it is true of Mr. Roddenberry with whom I signed the contract, and it was true with respect to Universal.

MR. MENDONSA: This is the argument you made to Mr. Franklin?

MR. MAIZLISH: The argument, I might add, which Mr. Franklin ultimately bought.

I said, "Look, this is an opportunity for Francy to hire other Guild members to write."

MR. MENDONSA: That is precisely my point. He finally did buy your argument, right.

MR. MAIZLISH: Yeah, pretty late in the day.

MR. MENDONSA: When was the first request for signing of Mr. Chermak's company?

MR. CHERMAK: Early in April.

MR. MENDONSA: Early in April. And then it was, what, sometime shortly after the 15th that Mr. Franklin went ahead and changed his mind and signed the loan-out company?

MR. MAIZLISH: And signed Tony Wilson.

MR. MENDONSA: And to your knowledge, did he sign the other companies?

MR. MAIZLISH: I think Mr. Chermak indicated hardly a day passed, and as the Committee is well aware, four or five companies signed. You ended up signing a couple of hundred other companies, many of whom were formed the day before. We were formed in 1969.

MR. MENDONSA: The first to sign was Tony Wilson?

MR. MAIZLISH: No, the first was Norway Corporation, Gene Roddenberry's company, because I signed that. As far as Culsan, I signed that, too. It is the first one that I know about. Whether or not it was in fact the first one, I don't know.

MR. MENDONSA: To your knowledge.

MR. MAIZLISH: To my knowledge, I know for a fact that I was the first one to sign the agreement because Mike and Gary Owens told me about it.

MR. MENDONSA: Anyway, it was clear in your mind that the Guild's policy was, up to at least April 16, that it was not signing any loan-out companies and after that date changed its mind and signed all loan-out companies?

MR. MAIZLISH: Well, it was clear up to April 13 it was not signing certain companies. I had the discussion with Mike and I tried to point out to Mike, for example, with respect to Culsans, it hired fellows like Rick Husty, Austin and Camden on a number of projects. There was no distinction. Gene Rodenberry's company had gotten Star Trek on the air and Tony Wilson got Banacek on the air, and the shows that he had gotten

on the air were shows that he had written himself and weren't done through his company.

You couldn't draw any distinction between Culsan and Norway and Francy and Norway. They all fitted into the same mold.

MR. MENDONSA: Then, of course, I raise the argument that money won out. The Guild changed its mind.

MR. MAIZLISH: Right.

MR. MENDONSA: I don't mean to say that Mr. Franklin made these decisions on his own. I don't suppose you knew either. They were probably decisions passed on to he Board of Directors.

MR. MAIZLISH: I said to Mike, I said, "Look, Talent Associates -- here's Leonard Stern." I said, "The best thing the Guild could do is to make a deal with all the independents and to force Sid Sheinberg to make a deal operative to all these independent companies, you are going to have to force him into a situation where he's going to go along with the independent deal. You may not get it through the front door, bu you are going to get it through the back door. If you got Guild writers signing 1973 agreements, why are you trying to nit-pick with loan-out companies? What is it but what a tax lawyer, or an accountant, or a lawyer such as me puts down on paper."

MR. MENDONSA: In your first conversation with Mr. Maizlish -- I take it there were more than one.

MR. MAIZLISH: There certainly were.

MR. MENDONSA: Prior to April 16th?

MR. MAIZLISH: April 16.

MR. MENDONSA: April 16 is the date. Prior to April 16th,

at that time, prior to that did you advise Mr. Franklin not to go into the studios?

MR. MAIZLISH: Prior to April 16th, did you advise Mr. Chermak not to go into the studios?

I said he was giving him no choice. I said, "Look, you are putting Cy into a position where he can't make a living, he can't make any money. Look at what you are doing to him, you are leaving him no choice."

MR. MONASTER: May I say something?

I get a feeling here that when you use the names Gene Roddenberry and all these other luminaries, that it is a case of a lot of Guild members who were ardently talking strike and running off and doing something else. I can't think these names were being dropped for the purpose of letting us know that a good many ardent, articulate members were making money during the strike. Is that your intention?

MR. MAIZLISH: No, it is my intention to say that the Guild is not a homogenious organization. It is made up of people who have multiple talents and people in various kinds of positions.

Mr. Franklin a couple of days ago told me at the time that the strike ended that there was some 300 writers who were writing.

There were attempts at the time in early April to try to draw lines. I think that those attempts were unwise; I think that they were arbitrary; I think that they were discriminatory. Later on the Guild changed its mind and determined not to try to draw those kinds of lines, that that

was not possible to draw those kinds of lines. None of those people worked in violation of any Guild rule. Mr. Quinn went to work for Quinn Martin to write scripts because he was free to do so. Mr. Chermak was under exclusive contract for Universal, he couldn't write scripts for anybody, even though he hasn't received a credit for seven years.

As far as people with production companies, none of the individuals that I mentioned had violated any provision of the strike. You are right in referring to Mr. Roddenberry as a very ardent supporter of the Guild. It was through his instruction that I participated until 3:00 A.M. in the morning in the various discussions and served as kind of a liaison between other independent producers because I was the most sympathetic one to the Guild because that was Mr. Roddenberry's position and that was my position, and because the trial balloons that went out from Gary and Mike as to what the others would do went through me because I was the one who was trying to sell it to the other people who were in these rooms. So I'm not implying that any other Guild member did anything wrong at all. As a matter of fact, I say exactly the contrary. They adhered to the Guild rules completely. It shifted the positions that they were put into and enabled them -- the positions promulgated by the Guild enabled them to make a livelihood. And the positions shifted. It forbid Mr. Chermak from making a livelihood.

I am talking about a piece of material that someone else had written and some other company was involved and that person did not involve his personal services. That's what he

did.

MR. LAVERY: I was about to suggest on behalf of the panel that we had a pretty good exposure to the philosophy and the changing economics of the business. It wouldn't serve much purpose to make a rather detailed roll call of people covered under a variety of circumstances, some who suffered fantastic financial loss and others who hadn't suffered, but we feel, I think, that we should move deeper and deeper to the heart and crux of the matter; that almost a fishing exposition has been done on background.

MR. MENDONSA: So, may I continue cross-examination?

MR. LAVERY: Yes.

CONTINUED CROSS-EXAMINATION

BY MR. MENDONSA:

Q Mr. Chermak, I believe you stated that you supported the strike up until April 16th, 1973; is that correct?

A Yes, sir.

Q You refrained from crossing any picket line, nor did any work at all for Universal.

Was it a fact that you were out of the country from February 28 to March 13 and then again from March 15 until the middle of April?

A It is a fact that I was out of the country from February 28 -- did you say until March 13th?

Q Yes.

A That might be accurate, yes.

Q And then you again went out of the country on the

15th of March to the 13th of April?

A That is correct.

Q On business?

A The first trip on February 28th was a location scouting ship on behalf of Universal Studios. When I left on that ship, we were all in high hopes that by the time I got back a contract would have been accepted. I got back and discovered that there was no contract, that there was a strike.

The second trip that you mentioned was not professional, it was personal.

Q That was on vacation time?

A Correct.

Q Can you tell us when you had scheduled that vactation?

A At least three months before we left. It was a charter flight to Aruba.

Q So, your absence from Universal Studios was not because of any condition on the part of the strike?

A My absence from Universal Studios was because the completion of the trip which I had planned some time ago made it a little easier to adhere to the conditions on behalf of the strike.

Q It was stated that during the 1960 strike that you had a long period of going without work as a result of compliance with the Guild rules and regulations; is that correct?

A Yes, sir.

Q I believe you stated it was some time -- I'm sorry. What were the dates, do you recall?

A Well, the strike was from January 1960 until five

months after. I don't know the exact date of the settlement, until 5/20 1960, and when the strike was over, I became unemployed from 5/20 until February '61.

Q Do you recall a rewrite assignment in October of 1960 for J & M Checkmate?

A Now that you refresh my recollection, sir, I do. I believe it is Universal Studios. Does it also say how much I was paid for that?

Q Yes. For your information, I'm referring to the last page on Guild's Exhibit No. 2. At the bottom of the page lists the compensation of $1500.

A I'm sure that's accurate.

Q You had another assignment in January of '61, dated January 31 of '61, the Acapulco Carbon Cat story?

A Yes, sir; that's the February 16th.

Q That is the February date?

A Yes, sir.

Q When you went in on the 13th of April, 1973, to Universal, you stated that the company did not consider you working. Did you yourself consider yourself working?

A No.

Q You went in for the purpose of, one, to eat lunch and to make phone calls. Were those official business calls?

A No.

Q These were all personal calls?

A Yes, sir.

Q May I ask what was the purpose, then, of going to Universal Studios?

A It was an act of defiance.

MR. MENDONSA: I have no further questions.

MR. MAIZLISH: One particular point.

REDIRECT EXAMINATION

BY MR. MAIZLISH:

Q When you spoke to Mr. Ellis who testified, he said you spoke to him at 2:25. Where did you speak to him?

A From my home.

Q You had already gone home?

A Yes.

MR. MAIZLISH: No further questions.

MR. LAVERY: Perhaps some members of the Committee have a question.

Norm?

MR. KAUFMAN: Again, to get a little more insight to something, I usually find in my case whenever I have a crisis, I have a tendency to talk it over with friends. Did you talk to any other writers; did you discuss it with anyone and get their opinion?

MR. CHERMAK: Not with any other writers.

MR. KAUFMAN: But, with friends outside the Guild?

MR. CHERMAK: Yes, with one writer, my wife, who is a member of the Guild.

MR. KAUFMAN: And, I gather, she of course concurred in what you did?

MR. CHERMAK: She felt that we were in a desperate position in the negotiations with Franklin and that someone should

understand that we were in a desperate situation.

MR. KAUFMAN: Desperate in what sense, economic?

MR. CHERMAK: No, sir. We felt that we were being banged against the wall by not being allowed to operate within the industry as other executive producers who owned companies were and as other members of this Guild who had avenues of livelihood available to them and that we should make known that we considered this a serious thing that was being done to us.

MR. KAUFMAN: How about members of the Guild who were in more or less precisely the spot you were in? There were many.

MR. CHERMAK: Sir, those members who were in precisely the same spot as I was rapidly got out of that spot after the Guild brought charges against me. Almost immediately after charges were brought against me, those members were extricated from their position and, as I said, for me it was a little too late.

MR. KAUFMAN: But, you feel, then I gather, that your act of defiance had a salutary effect on a late but nevertheless response from the Guild?

MR. CHERMAK: I've ashamed to admit that I don't understand the full meaning of the word salutary, but I feel it accomplished good for those who owned production companies and who were then given an opportunity to make a living.

MR. LAVERY: Any questions?

FURTHER CROSS-EXAMINATION

BY MR. MONASTER:

Q April the 13th was an act of defiance based on the

failure for the Guild to accept your company as a signatory, based on this phrase I just heard for the first time. What was your act on April 13th?

A Going across the line to have lunch at the studio and having my secretary place some telephone calls.

Q Then it had nothing to do with the Guild hired personnel that was an act of defiance to have lunch at Universal and to make a few phone calls; it wasn't an act of defiance for Francy, it was an act of defiance for lunch. I thought an act of defiance is where you would effect a purpose. "I'll go down and -- "

A No, sir, no sir. At that time I felt that the Guild might not have understood just what the effect of their actions towards me and toward my company had had on me.

Q I see. Then there was that element of the Guild's refusal --

A Yes, sir.

Q Somewhere between 1:00 o'clock on April 13th you were seen driving through the picket line?

A Yes, sir.

Q On April 14th it was on the air?

A Yes, sir.

Q Has anybody said anything to you, Mr. Chermak, that action taken place on April 13th was reported, processed, wrote in the file, agreed to in time to make the 6:00 o'clock news on April 14th?

A Yes, sir.

MR. MAIZLISH: That is exactly what I'm saying.

Exactly when he says it is an act of defiance, a symbolic act, I think it was, from Mr. Chermak's home, going in not for the purpose of work, but just crossing the line would kind of bring hired personnel of the Guild to their senses with regard to discrimination that he was being subjected to which might lead to negotiations. All of that went out the window when he was subjected to these cries. He was hopeful that it could be resolved.

MR. KAUFMAN: It is kind of an object analogy, hired personnel. You are hired personnel in a sense. Hired personnel as if they don't share our morality, as if you are saying that you fellows could have passed on nobility. We're talking about hired personnel that work for a living.

THE WITNESS: That's characterization of you.

Q BY MR. MONASTER: Fine. We are at the 13th. Pure act of defiance, hoping to bring them to their senses. Now, on the 14th you heard your name. So, your determination to go back to Universal on the 16th as a result of dreadful, dreadful things, sulking there, contemplating with your wife and child and hearing your name mentioned in kind of a roll of one who sold out to the Nazis, you know, so on the 16th you went in, really, no more for a symbolic act, saying "If they can do that to me, I'm going to go back to Universal because, if I have to make a decision between the evil of the Universal and the unspeakable acts of the Guild, I will choose Universal."

That's April 16th. Your decision was based on that.

When did your company become signatory with Mr. Franklin; what was the date of that?

A I believe the date was May 4th.

MR. MAIZLISH: May 4th, but the agreement is dated -- there are three dates.

MR. KAUFMAN: What is the earliest date in which the two of you agreed?

MR. MAIZLISH: The agreement, but as of May -- the date I transmitted, my transmittal letter is May 4th.

MR. MENDONSA: I'm concerned with April 27th because it was on that day, you knew, sir, your company now had parity with Leonard Stern and all of them.

Now, having thus convinced the Guild that it made some kind of amends for an unforgivable thing up to then, so your reason for going to work for Universal no longer prevailed on April 27th --

MR. MAIZLISH: I'm going to interrupt you, if I may.

Mr. Chermak has, during the course of the recess, crossed out a number of things in his statement, comments regarding his actions from April 16 on and the reason why he did that was because it is very clear that this hearing is limited to his actions of April 13th, 1973. It did not go beyond that. If the Guild desires to initiate anything else, we're certainly prepared to respond to it. Mr. Chermak is prepared to state what he did, why he did it and do so with a clear conscience. I simply say to you that he did not perform any writing services nor had anybody do any writing for him. He served in executive position and in that position he is twice removed, story editor and editor. The charge here before us is a charge that relates to April 13, 1973, and I think we

ought to direct our attention to that.

MR. MENDONSA: I think the question was not improper. We are talking about Mr. Chermak's motives. We are confining ourselves to April 13, 1973. Mr. Chermak stated that he went across that line with certain motivations. What has been gone into now is to test the motivation and the question is simply when his alleged motivation ceased, did he continue to work for Universal. I think that is a valid test of the motivation to which Mr. Chermak testified to.

MR. MONASTER: I will confine myself to these dates, although I have a kind of sense of uneasiness because I feel that we kind of arrived at justice based on a kind of rigid set of archaic laws that say "Don't say anything that may turn up for two years later. It will haunt you."

MR. MAIZLISH: You have to realize how quick this got processed. He went into Universal and the next day the whole thing hit the fan.

MR. MONASTER: None of us here stood in terror that we may make an inadvertant statement that will help you.

MR. LAVERY: Actually, it isn't as limited as the formal motions would indicate. It is true that the tape, or the transcript will look as if we're concentrating on details, but a detailed reading of the transcript will show that we have not attempted to limit anybody. We have flexibility.

(Whereupon at 5:45 a brief recess was held.)

MR. LAVERY: I have two questions, they are very small ones. They are really only informational.

Several times, and perhaps collectively, the word

personal comes into play between the relationship of the respondent and the Guild and its officers, or offices, and I can understand how that can, in terms of tension, seem to be very personal and the treatment may seem more personal to this individual than it has been to others.

What I am trying to find out, is it any more personal than that, the degree of personal reaction, was there anything on the part of the Guild or its staff that suggested have that quality that precluded the relationship with you?

MR. CHERMAK: May I respond to that? No. I believe there was nothing personal on the part of the staff or the Guild with regard to a vendetta quality, no, sir.

MR. LAVERY: One other question, and this is purely speculative.

There is no real value in terms of evidence, granted, on the 13th when you went into the studio as an act of defiance and a clear-cut notion in your mind as to what good it may achieve. Did you consider what non-good it might achieve in another area? There is, of course, the reaction of the Guild, the Board and all of these convenants. Did you consider how that action might be weighed by fellows that had given up profitable jobs or weeks of no hope of recapturing that money? Did you not feel that they might have felt just as strongly towards the Guild?

MR. CHERMAK: I'll put that in its perspective.

The reason I did not give any consideration whatever to any harm that might be done was because I knew that there had been charges pending against certain individuals who had

crossed the line from the day of the strike and had been working for six or seven weeks and at that moment, as of that day, nothing had happened.

Now, I have admitted freely, sir, that I did a little muscle flexing, and I think that it was done improvidently, but it was indeed intended to be muscle flexing. I did not expect that the National Guard would be called out and I would be fired upon that day.

When you start talking about what happened after that day with respect to the wishes of my attorney, who really thinks we shouldn't get into it, and I understand the legal reasoning, I think it would probably be impossible to get into it. It just snowballs. In the trade you are in the papers; you are receiving telephone calls, you are signing agreements, but nothing, nobody is saying "It is okay. Come back home." We were at war by then and the lines were drawn.

MR. LAVERY: You have answered the question. Thank you.

Are there any other questions or are we ready for summation?

MR. MENDONSA: I have a couple more questions.

FURTHER CROSS-EXAMINATION

BY MR. MENDONSA:

Q You stated that the second time, your absence from March 16th to the middle of April when you were scheduled to return --

A It was a seven-day trip; it was a seven-day chartered flight by Pan American to Aruba. If you have the date which I

left, then I can say I was to return seven days after that.

Q You were scheduled to return seven days after you left?

A Yes, on the seventh day.

Q The flight was chartered --

MR. MAIZLISH: On the 15th of March.

Q BY MR. MENDONSA: -- the 15th of March. So, somewhere around the 22nd of March --

A 22nd of March, and I did return on or about the 22nd of March.

Q But, you did not report to Universal?

A No, sir.

Q Did you have any discussions with them between March 22nd and April 13th?

A No, sir.

Q You had no discussions whatsoever?

A No, sir.

Q When you went on April 13th, did you have any discussions with respect to your return to work?

A Yes, sir. Some people came up to me, individuals and said, "Hello" "How are you?" "Welcome back" "Good to see you".

I went in the Commissary. Everybody knew who I was and what may or may not have happened. I was generally non-commital about what I was doing, where and why.

Q After you returned on the 22nd of March, Universal made no attempt to contact you on your return?

A No, sir.

I received at least one form letter signed, I believe by Lou Wasserman. I'm sure you have seen that letter. The dates are all the same. Whenever that letter arrived, that was the only communication I had.

Q That would be the letter directing you to return to work and promising indemnification?

A That's right.

Q Was it your opinion that you had no right to return to work in a writing capacity or any other capacity with a signatory company?

A It was my opinion that I had no right to work for the signatory company by virtue of my personal services contract, yes, sir.

Q Was that based upon information that you received from your attorney?

A I believe not. I believe that that was my own opinion.

Q Did you ever contact the Guild to determine what its legal opinion was on that with respect to your activities?

A No, sir, but I can state for the record that one of the producers who worked under me -- he's a line producer on Ironside -- his name is Albert Aley -- did contact the Guild and was told that he could not write for a signatory company. I'm sorry. It might be he contacted Universal. In any event, Albert told me that Quinn Martin, with whom he did work, offered him an assignment that he had to refuse.

Q To the best of your information, he did receive that from Universal?

A Yes, to the best of my knowledge. It is hard for me to believe that. Albert is a past member of the Council who would not have spoken for somebody at the Guild.

Q I don't think he would have disseminated that information.

I have no other questions.

MR. LAVERY: Are we ready for summation?

MR. MAIZLISH: I am. I suppose I would go second.

MR. LAVERY: I think that's true.

MR. MONASTER: I'm going to be very brief.

We simply have shown evidence that, undisputed evidence that Mr. Chermak did cross a Guild picket line on April 13, 1973. There is evidence from the Guild witness that in that conversation Mr. Chermak stated that he intended to go to work on next Monday. That of course is now before this Committee and any contrary evidence from Mr. Chermak that he in fact performed no work on Friday the 13th, we'll simply have to leave that up to the panel to judge that. But, in any event, Mr. Chermak did cross the line. His own testimony in defiance, direct defiance of the Guild's rule. Mr. Chermak, his record, his accomplishments are well known as a member of this Guild, and his having simply crossed that line in open defiance certainly had impact upon the Guild and its membership. This has been taken into consideration, that his crossing the line, perhaps more so than even someone of a lesser known person, had a more impact upon the Guild's position at that time.

In any event, the Guild, I believe, has proven its

case that Mr. Chermak did cross the picket line in defiance and in violation of Sections 12 and 13, inasmuch as he did not notify the Guild in advance to obtain a pass to go into the premises. He did cross the line in violation of Section 12, and all of his conduct, which is prejudicial to the welfare of the Guild, in violation of Section 1, and of course crossing the picket line of a struck premise was in violation of the Guild's Strike Order.

Thank you.

MR. MAIZLISH: First of all, let me express our appreciation for the attention that you have paid us and the courtesy that you have extended to us, and that goes for all the members of the Committee. I'm sure I speak on behalf of Mr. Chermak as well.

What we have here, apart from a failure to communicate, is a one-day situation involving less than two hours.

Rather than what Mr. Mendonsa said about some contrary evidence, there has been no evidence at all that Mr. Chermak performed any work on April 13th. Mr. Ellis did not testify that Cy worked at all on April 13th, let alone did anything at all that had anything at all to do with writing. I might reiterate with respect to writing, the fact that he had only one writing credit in nine years, and that writing credit seven years ago.

I don't suppose there is any grievance against taking a personal vacation. The record is clear that from March 22nd on at least he was here in town and observing the strike.

It seems to me, as I have analyzed this situation

and lived through it because I did live through it, was a part of it, that I think there is a great deal of truth to the statement that had the Guild's response come earlier, that there could have been a different situation with respect to Cy Chermak.

To respond somewhat more, Mr. Monaster, to the matters that you alluded to, I would refer you to the Guild's contract file with respect to Francy Productions. It is my position, legal position, apart from the moral position, that Francy Productions, when it became a signatory, anything that Mr. Chermak did, including April 16 -- because the contract is effective as of March 6th, anything that he did since Francy was complying fully with the provisions of the Guild's agreement; that is the payment of money, services, all of those things which we knocked out in this room, that any services that he rendered at Universal were not in violation of any strike.

It is true, as Mr. Chermak said, that we had made an offer in the beginning, just simply in order to make this other network deal to get a few dollars, in that it would not involve Universal, but there was nothing that we signed, nothing in the agreement to which I respectfully refer this Committee that can, I think, be construed in any other manner than as authorizing Francy Production, which agreed in writing, my signature, Mike Franklin's signature, to adhere to the decision of the 1973 agreement.

So, the agreement which was signed May 4, dated April 27th, and is effective as of March 6th is one, in my opinion, that made any services that Cy rendered valid.

I know that I have perhaps been somewhat of a

frustration to you and I have not meant to be, in terms of limiting, as such. It seemed to me, that considering how this thing came at Cy so quickly, I mean, it just flew in his face as such, that if the Guild did not choose, for whatever reason, to amend its complaint to bring in other things, that we ought to really adhere to what the rules are and do this in a proper fashion rather than getting into a wide open thing. So, I have done that. It isn't because there is anything that Cy did after April 16th that he is ashamed of. As I said before, he did no writing; he hired no writers. There wasn't anybody that was scabbing for him. He didn't talk to any writers. That was the basis upon which I talked on his behalf over that weekend. And the bases of which he returned to Universal on the 16th was that he would not be asked to do any writing, wouldn't be asked to talk to any writer. So, that's that situation and I wanted to give you the full story on what it was.

I think that if the strike, as Cy had said, had been a normal one, that if it had been across the board a blanket situation that nobody worked, Cy wouldn't be here, I wouldn't be here, you wouldn't be here. If there had been a real possible attempt, an attempt that Cy recognized as possible, we wouldn't be here.

Unfortunately, Cy worked for five years an unknown producer of Ironside. He goes to lunch and is a celebrity on the news, not the kind he wanted to be.

If the Guild had taken the position a matter of days earlier in what they had taken, this panel would not be convened.

I think we have said it all. I think that Cy has

indiated, is his demonstrable way, that his conduct is not the type of conduct of those who have been absent from these proceedings engaged in and, as I say, there were certainly extenuating circumstances, circumstances of considerable mitigation with regard to him. And I hope that you will take those in mind and keep those in mind in your considerations. Thank you.

MR. LAVERY: For the record, I have to make the closing paragraph.

This matter will be taken under submission by this Trial Committee. After this Committee has deliberated, it will submit its written recommendation as to guilt or innocense along with its recommendation for disciplinary action, if any, to the Board of Directors who, under the Guild's Constitution and By-Laws, have the authority to do either accept, reject or modify this Committee's recommendation.

In order for this Committee to make a recommendation of guilt, it will require a vote of no less than four members. If more than one member votes for acquittal, it will be the recommendation of this Committee that the Respondent be acquitted of the charges.

There being nothing further, this hearing is adjourned.

(Whereupon at 6:00 P.M. the proceedings were concluded.)

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

I, WILLIAM A. CUFF, C.S.R., Notary Public for the State of California, certify:

That the foregoing transcript of proceedings was taken before me at the time and place therein set forth and recorded by me stenographically; thereafter, my notes were transcribed into typewriting under my supervision.

In witness whereof, I have subscribed my name and affixed my seal this 14th day of September, 1973.

William A. Cuff

Notary Public in and for the
State of California

OFFICIAL SEAL
WILLIAM A. CUFF
NOTARY PUBLIC - CALIFORNIA
PRINCIPAL OFFICE IN
LOS ANGELES COUNTY
My Commission Expires August 20, 1977

INTRAUNION DISCIPLINARY HEARING

9 c 165

In the Matter of)
)
WRITERS GUILD OF AMERICA, WEST, INC.,)
)
and)
)
ROBERT A. CINADER)
)

TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

August 22, 1973

ORIGINAL

REPORTED BY: Willie B. Brown, Notary Public
CERTIFICATE NO.:

BILL CUFF & ASSOCIATES
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INTRAUNION DISCIPLINARY HEARING

In the Matter of)
)
WRITERS GUILD OF AMERICA, WEST, INC.,)
)
and)
)
ROBERT A. CINADER)
)

TRANSCRIPT OF PROCEEDINGS taken on behalf of Writers Guild at 8955 Beverly Boulevard, Los Angeles, California, commencing at 2:20 P.M., Wednesday, August 22, 1973, before Willie B. Brown, Notary Public.

BEFORE:

EMMET LAVERY, Chairman

SY GOMBERG

GEORGE SEATON

WENDELL MAYES

JACK ELINSON

ORIGINAL

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MR. LAVERY: Are we ready?

MR. ORMAN: The Guild is ready.

MR. HOLTZMAN: Ready.

MR. LAVERY: May the hearing come to order. This is a disciplinary hearing in the matter of the Writers Guild of America, West, Inc., versus Robert A. Cinader. The matter is being heard before a trial committee duly convened pursuant to Article X by the By-Laws of the American Guild West, Inc.

The members of the trial committee are -- reading from left to right Jack Elinson, Wendell Mayes, myself Emmet Lavery as Chairman, George Seaton and Sy Gomberg.

Will the parties state their appearance for the record.

MR. ORMAN: Milton Orman appearing on behalf of the Executive Director of the Writers Guild.

MR. LAVERY: For the Respondent.

MR. HOLTZMAN: For the Respondent respectfully to all rights of Loeb and Loeb, Robert A. Holtzman for the Respondent and also --

MR. SUSMAN: Robert Rosenfeld, Meyer & Susman by Allen E. Susman.

MR. LAVERY: I have a copy of the charges and a cover letter with a signed returned receipt date July 27, 1973, marked as Trial Exhibit No. 1.

Is there any objection to the receipt in evidence of that exhibit?

MR. HOLTZMAN: Mr. Chairman, we don't object to the admission of this document in evidence. I think that I should

point out for the record that the attachment to which you refer is not a copy of the charges as you indicate, rather that it is a notice of the charges. The charges are not set forth here except by way of summary and no copy of the charges have been furnished to the Respondent in accordance with the Constitution and By-Laws.

MR. LAVERY: Well, the record will show your comment on that.

MR. HOLTZMAN: Thank you.

MR. LAVERY: I think as Trial Committee Exhibit No. 2 there is or was a document with reference to a continuation of the hearing, but I don't think the document that I have in front of me is exactly the continuation of that. I think it was arranged by telephone.

MR. ORMAN: Do you have a letter of that, Mr. Chairman, dated August 14 from Loeb and Loeb?

MR. LAVERY: I have one August 14.

MR. ORMAN: August 14, this is the one that indicates confirming that it be continued to today's date.

MR. LAVERY: I do have that letter of August 14 from Mr. Holtzman to Mr. Orman and that would be Trial's Exhibit No. 2.

MR. HOLTZMAN: No objection.

MR. LAVERY: At this point, expressing our appreciation to counsel for the Respondent for having filed preliminary motions in typewritten form, perhaps before proceeding any further, the panel should take a brief adjournment or at least an adjournment to consider and reflect on these motions

as presented.

It seems an appropriate point in the agenda.

MR. HOLTZMAN: That will be satisfactory with me.

For the record, I do ask that these be made part of the record.

MR. LAVERY: Yes, they will.

MR. HOLTZMAN: I have additional copies for each of the Committee members if they so desire.

MR. LAVERY: Well, that might be helpful.

MR. HOLTZMAN: Mr. Chairman, with your permission, I will hand you four additional copies to be distributed to the other Committee members.

MR. LAVERY: We will take a short adjournment.

(Whereupon the aforementioned documents were marked Trial Exhibits No. 1 and Trial Exhibits No. 2 respectfully by the hearing officer and are attached hereto.)

(Recess.)

MR. LAVERY: Are we all here?

The hearing will reconvene.

The panel has considered the motions as presented in written form by counsel for the Respondent and the motions are all denied.

Now, opening statements?

MR. ORMAN: The Guild waives opening statements.

MR. HOLTZMAN: We will defer our opening statements until the close of the Guild's case.

MR. LAVERY: Mr. Orman.

MR. ORMAN: This time I propose to have submitted into evidence by stipulation as Guild's No. 1, the original strike order dated March 5, 1973, a copy of which has been presented to everyone here.

MR. HOLTZMAN: Let the record show that we have no objection to the submission of this document.

MR. LAVERY: Fine.

(Whereupon a copy of Writers Guild of America, West, Inc. Rules for the Conduct of Strike Members During a Strike dated March 1, 1973 was submitted into evidence and is attached hereto.)

MR. ORMAN: And I propose to have submitted into evidence Guild's No. 2 and 2a the Original Rules for the Conduct of Members During a Strike dated February 20, 1973, as amended May 1, 1973, a copy of which has been distributed.

MR. HOLTZMAN: Excuse me. What was Guild's Exhibit No. 1?

MR. ORMAN: No. 1 is an original strike order indicating that the Guild is going to strike. It has attention in large letters --

MR. HOLTZMAN: I see. Have we been furnished with a copy of this?

MR. ORMAN: Well, I will give you a copy of this.

MR. HOLTZMAN: I will appreciate it.

Thank you, very much.

The record should show that we have been furnished with a copy of Guild's No. 1 which we thank Mr. Orman.

We have no objection to that document nor do we have any objections to Guild's Exhibit No. 2 and 2a.

(Whereupon the aforementioned documents were marked Guild's Exhibit No. 2 and 2a respectfully and are attached hereto.)

MR. ORMAN: And as Guild's Exhibit No. 3, the Writer's Credit Record of Robert A. Cinader which is a one-page document.

MR. HOLTZMAN: No objection.

MR. LAVERY: So ordered.

(Whereupon the Writer's Credit Record was marked Guild's Exhibit No. 3 and is admitted into evidence and is attached hereto.)

MR. ORMAN: And as Guild's Exhibit No. 4, a several-page document showing Mr. Cinader's record of member's payment on one side and his work record on the second side.

MR. HOLTZMAN: No objection.

MR. LAVERY: So ordered.

(Whereupon the record of member's payments was marked as Guild's Exhibit No. 4 for identification is attached hereto.)

MR. ORMAN: And as Guild's No. 5, an excerpt from the Daily Variety dated Friday, June 8, 1973, in which in the second column, from the left, the last paragraph of the first item in which it says --

MR. HOLTZMAN: Mr. Orman, don't read it until we have

a chance to state our objection. We don't want you to sneak it on the record that way.

I take it that you are offering not the whole document but only that portion that is bracketed?

MR. ORMAN: That is right.

MR. HOLTZMAN: Mr. Chairman, I recognize that we are not bound by the rules of evidence as we would be in a court of law, but it seems to me that we are going a little bit far when we start putting newspaper clippings into evidence.

In all due respect to the profession, I am afraid that we must recognize that newspaper articles including trade paper articles are notoriously unreliable. We do not know what the article is based on. It may be rumors, speculation, a planned press release. It almost appears here -- what we have here is a document placed, submitted to the writer to the Guild itself. The writer of this article is not here. He is not subject to cross-examination. We have no idea what his source is or what basis of the information set forth. I respectfully suggest that it transcends the bonds of fair play as well as due process of law to permit a part not even the whole, but the part of a newspaper article to come into evidence before this Committee.

MR. ORMAN: May I be heard?

MR. LAVERY: Yes, indeed.

MR. ORMAN: As counsel said, we are not bound by the rules of evidence. The Guild would admit that if there is any credible evidence presented to contradict this, that this evidence will no longer have any validity, but I do submit

that for the purposes of this hearing and in keeping of the rules, that we hear at least prima facie, true, it is prima facie factual. And in the absence of any evidence to prove that it is not true, I think that this trial committee has a right to accept it. We will be the first to admit. If counsel could permit any evidence to contradict credible evidence, we admit that this thing falls by the wayside.

MR. LAVERY: Why don't you ask that question?

MR. SUSMAN: That is twisting the rules of evidence backwards. You don't throw the burden on the other side to rebut an inadmissible and hearsay piece of evidence. A newspaper article is completely hearsay under the most liberal of rules.

MR. LAVERY: We can only take up one point at a time.

MR. ORMAN: Mr. Chairman, may I be heard?

MR. SUSMAN: That is my opinion.

MR. LAVERY: I just want to indicate to Mr. Susman that I don't think that it is quite as irregular as he indicates. I hope that I can be heard myself later.

MR. ORMAN: We are not here bound by the rules of evidence. Well, all the limitations upon this trial committee both under Federal law which counsel so frequently quotes is that it should be fair, that any rule -- that any assumption mixed or any notice it takes of itself, will be reasonable notice.

Certainly, an article in the Daily Variety can be considered reasonable, factual for the purposes of this hearing, and it is not quote far-fetched, et cetera, in the

daily course and ordinary course of events. If anything is printed in t[illegible] Daily Variety, it is certainly a factual statement. [illegible]mere[illegible]y sa[illegible]ing that somebody is going to do something.

MR. LAVERY: The Chairman has two questions before we proceed, and I think that they are relevant.

One, is Mr. Cinader present here today?

MR. HOLTZMAN: Yes, he is here, Mr. Chairman.

MR. LAVERY: Well, in any event, undoubtedly, he will be asked questions flowing from -- I don't see what injustice could be done if this turned out not to be so, but my question is, is it proposed by counsel at this time that there is an error in that, that the inequity in receiving it would be the inequity of accepting for identification something that couldn't even be potentially true?

MR. HOLTZMAN: Mr. Chairman, it seems to me that it is up to the moving party to prove his case, to prove the Guild's case, and proving it by competent evidence.

Now, what the evidence is -- what the competent evidence is going to disclose during this hearing, I don't know, but there is no rule of law -- there is no rule of evidence more sacred to the Anglo-American legal system than the rule that precludes the admission of merely hearsay evidence.

Now, any of us that have watched television for the last six weeks have heard that point belabored over and over again by the facts that it is true. When evidence comes in, I mean from the light of cross-examination, where the

person who made the statement is not before the panel, can't be cross-examined, his demeanor can't be observed, the basis of his information cannot be explored, the evidence simply is inadmissible and even this tribunal should recognize the unreliable character of this evidence.

MR. ORMAN: At this point, Mr. Chairman, the Guild will withdraw this exhibit. I assume that it was Cinader, but I wasn't sure. At this point, since Mr. Cinader is here, and I take it that he will testify, the Guild will withdraw the proposal to admit this exhibit into evidence and reserve the right to present the exhibit in evidence at a later stage of this hearing.

MR. LAVERY: All right, so accepted.

MR. HOLTZMAN: Fine, no objection to that.

MR. ORMAN: That concludes the exhibits that the Guild wants to put in at this juncture, and I will now call my first witness, Mr. Collins.

THE REPORTER: Mr. Chairman, would you instruct the witness to sit over here, please.

MR. LAVERY: Our stenographer has asked for greater clarity, will the witnesses sit next to him. I think it is a better position than -- sometimes there has been some difficulty for this side to understand from over there.

Well, it is good for him, but not for you.

MR. ORMAN: In the case of this witness, I will oppose no objection, but my second witness, I will prefer to have him sit next to me since it is easier for me.

MR. LAVERY: Perhaps we can move the stenographer over

on that side.

Well, all right, proceed.

ROBERT COLLINS,

called as a witness on behalf of the Guild,

testified as follows:

EXAMINATION

BY MR. ORMAN:

Q. Mr. Collins, will you state your full name for the record, please.

A. Robert Collins, C-o-l-l-i-n-s.

Q. And you are a member of the Writers Guild?

A. I am.

Q. How long have you been a member of the Writers Guild?

A. Approximately six years.

Q. Did you have any strike duties during this recent strike?

A. Yes, I was a picket captain at Universal Studios.

Q. Can you tell us what your duties as picket captain were at Universal Studios?

A. To make sure that there were pickets at the studio when they were assigned, to assign the pickets to the different positions at the studio and to generally oversee the activities of the pickets.

Q. Directing your attention to the month of June, 1973, can you tell us whether or not there was picketing at

Universal Studios during that month?

A. There was picketing.

Q. Can you tell us how often there was picketing at that studio, Universal Studios?

A. After picketing on a regular basis stopped, there was picketing at least once a week on a mass basis of several pickets in front of the main gates at Universal, at least once a month.

Q. Do you know approximately when the regular picketing ceased at Universal?

A. I believe it was at least the 1st of June.

Q. Can you tell us -- do you know what hours of the day there was picketing at Universal Studios?

A. During the month of June?

Q. Yes.

A. When there was mass picketing, it was generally from 11:45 to 1:45.

Q. And when there wasn't mass -- was there times when there was mass picketing?

A. Oh, yes, yes.

Q. At Universal Studios?

A. As I said, this mass picketing took place approximately one day per week in the month of June.

Q. Was there regular picketing at Universal Studios when there wasn't mass picketing?

A. No, there was no picketing when there was no mass picketing.

Q. Prior to the month of June, in May, can you tell

us -- are you aware of picketing at Universal Studios during the month of May?

MR. HOLTZMAN: Mr. Chairman, I am going to object to the question on the grounds that the charges relate solely to the month of June and anything that happened during the month of May is totally immaterial.

MR. ORMAN: Mr. Chairman.

MR. LAVERY: Yes.

MR. ORMAN: May I be heard?

The most common rule of evidence is to show patterns to establish knowledge upon the part of people. You may use any type of evidence wherein prior to a particular charge show knowledge upon the person charged to show general of him -- general knowledge to show patterns of the events. This is merely preliminary foundational. Nobody is claiming that he has been specifically charged for picketing in May, but it is certainly relevant and it bears upon this subject.

MR. HOLTZMAN: Mr. Chairman, I haven't the slightest idea what counsel is driving at. If he wants to tell us where is going, maybe I can understand.

MR. LAVERY: Do you think it is fiercely prejudicial?

MR. HOLTZMAN: Yes, I think any evidence that comes in within a period of time could be prejudicial.

MR. ORMAN: If counsel --

MR. HOLTZMAN: We are dealing solely with the month of June. If counsel wants to show that some condition existed for the body of knowledge is possibly imposed for the month of June, fine. We are talking about May. May is not

encompassed by the charges.

MR. ORMAN: May I reply to counsel?

He said that he would like to know where Guild's counsel is driving at. Well, we will tell you what we are driving at. If there was regular picketing at Universal Studios during the month of May and if Mr. Cinader passed those picket lines during the month of May, and I think it would be a fair presumption to think that he knew that the Guild was picketing during the month of May and the Guild had a strike and the picketing was pursuant to the Guild's strike.

MR. HOLTZMAN: Mr. Chairman, I think that we are putting the cart before the horse. Maybe I can save a little bit of time here.

I think that we have gone through enough of these hearings so that we should know whether there was picketing, whether or not there wasn't, who picketed where and how.

Unless my recollection of the record has been accumulated in these hearings is totally false, there has been no regular picketing, that is no daily in and day out type of picketing at Universal Studios at any time after May 14, 1973. I believe this is a fact well known to the Committee. Counsel was able to stipulate to this in previous hearings, and I think that he will stipulate again. If he is trying to establish any pattern with respect to the month of June for conduct by stipulation, overwhelming evidence ceased around the middle of May. I think he is barking up the wrong tree. His pattern ceased long before any period that

has to do with the charges.

MR. ORMAN: I do think that counsel cannot be halfway on the limb and then run back. He must go to the logical conclusion. If you are willing to stipulate that there was regular picketing at least during the months of April and May at Universal Studios and that Mr. Cinader was aware then that there was picketing during April and May, then there is no need to go forward. You want it both ways.

MR. HOLTZMAN: I will stipulate that.

MR. SUSMAN: I will stipulate from time to time during the month of April and May, 1973, there was picketing at Universal; is that what you are after?

MR. ORMAN: Yes.

MR. SUSMAN: And that Mr. Cinader was aware of that fact.

MR. ORMAN: You so stipulate?

MR. SUSMAN: Yes.

MR. ORMAN: All right, fine.

I have no further questions of this witness.

MR. HOLTZMAN: Just one or two questions, if I may, Mr. Chairman.

CROSS EXAMINATION

BY MR. HOLTZMAN:

Q. Mr. Collins, I believe you testified that once regular picketing stopped, there was no picketing at Universal Studios other than what you call mass picketing; is that correct?

A. Yes.

Q. And your recollection is that after June 1st, this was approximately once per week?

A. Yes.

Q. Okay. Do you recall the first time after June 1st there was any mass picketing at Universal St os?

A. No, I am sorry.

Q. Can you give us any dates?

A. I can't give you any date.

Q. Can you give us the dates of the picketing?

A. I believe it was Wednesday.

Q. Can you tell us whether it was the first, second, or third Wednesday in June?

A. I would think that it was the first Wednesday in June.

Q. And approximately what time on that day did the first picket arrive?

A. I belie e 11:45.

Q. Incidentally, were you there on that date?

A. Yes.

Q. Was your testimony that the last picket left about 1:45?

A. Two o'clock.

Q. So the picketing occurred at the most approximately two and a quarter hours on that day?

A. Yes.

Q. Incidentally, do you know what time the working day commenced at Universal Studios?

A. It commences for different people at different times.

Q. Do you know what the range is?

A. Anywhere from 6:00 o'clock in the morning to 9:00 o'clock at night.

Q. Is it a fact, is it not, that the vast majority of people arrived to work at or before 9:30 o'clock A.M.?

A. Yes.

Q. Do you know when the second day of the so-called mass picketing at Universal Studios was during June, 1973, if there was a second day?

A. In June.

Q. The second day in June?

A. Yes. I believe it was a week later.

Q. Did it also commence about 8:45?

A. Yes, about the same time.

Q. And end about 1:45?

A. Yes.

Q. Were there any other occasions of mass picketing that you recall at Universal that you recall specifically prior to the end of the strike other than the two that we have been talking about?

A. During June other than the two that I testified?

Well, as -- I don't remember how many there were in June. There may have been three days that we picketed or possibly more. I remember that was approximately once a week until the strike ended.

Q. And the strike ended when to your knowledge?

A. It seemed to me that -- I remember it ending the last week in June.

Q. It was about the 24th?

A. Was it? I believe so.

MR. HOLTZMAN: Thank you.

CROSS EXAMINATION

BY MR. SUSMAN:

Q. There again on the period between June 7 and June 24 which is the date that the strike ended, was the same procedure with regard this mass picketing and frequency as observed at Universal, was that observed at other studios around town?

A. I am not familiar with what happened with the other studios around town.

Q. If I were to tell you that during that period at Fox, for example, there was only one incident during the 17 or 18-day period that there was any so-called mass picketing for two hours in the middle of the day, you wouldn't know if the same would be true of Universal?

A. It was more than one. I remember that it was approximately once a week.

Q. During the time that this mass picketing was going on, did you see Mr. Cinader cross the picket line?

A. I did not. I don't know Mr. Cinader.

Q. I take it that your answer is no as far as you know?

A. That is correct, as far as I know.

MR. SUSMAN: I have no further questions.

MR. HOLTZMAN: No further questions, Mr. Chairman.

MR. ORMAN: No rebuttal, Mr. Chairman.

MR. LAVERY: Next witness.

S. S. SCHWEITZER,

called as a witness on behalf of the Guild,

testified as follows:

EXAMINATION

BY MR. ORMAN:

Q. Mr. Schweitzer, will you state and spell your full name, please.

A. S. S. Schweitzer, S-c-h-w-e-i-t-z-e-r.

Q. And you are a member of the Guild?

A. I am.

Q. How long have you been a member of the Writers Guild?

A. Twelve years.

Q. Did you have any duties during this recent strike?

A. I did.

Q. Will you tell us what those duties were?

A. General investigatory duties of violation of strike rules.

Q. Did you have any particular location while you appeared on those investigations?

A. We were in the rear of the strike headquarters that is behind the Guild on Almont, I think it is.

Q. Directing your attention to June 14, 1973, can you tell us whether or not you ever spoke to Mr. Cinader?

A. I spoke to Mr. Cinader on Wednesday, June 13 at 3:20 P.M.

Q. Was this in person or by telephone?

A. By telephone.

Q. Did you call him or did he call you?

A. Well, I put in a call to his office, I think, some time around noon and left a number there and my name and he returned my call to the strike headquarters.

Q. He called you directly?

A. I think it was the secretary who got me on the line.

Q. And did she say hold on, Mr. Cinader wants to speak to you?

A. (No audible response.)

Q. When he got to the phone, did he say this is Bob Cinader or did Mr. Cinader identify himself as being Bob Cinader?

A. Yes, he identified himself and I recognized his voice which I had heard before. I explained that I had been asked to call him because -- I think there had been something in the Trades.

He talked freely about his own ambivalence about the past 14 weeks of picketing. He told about an incident in the prior week. I think when we were picketing at 20th and he was airing his feelings and another picket told him that if he felt that way, that he had no business being on the picket line. I think we talked about current negotiations. He told of a bet he made with Sy Gomberg as to when the strike

would end. He talked about the fact that loose lawyers would be at his trial and he felt that if the Guild had any class, they would give office space.

I told him that they were getting lunch and in those days, I think we had about eight lawyers. He said that they ought to put their names up on the door anyway which he ended. He also mentioned the letter sent to management in which he said that he would not write while working at Universal and he said that he hoped that the strike would end because he was unhappy with the calibre of the scripts that he was getting and he ended that by saying that Mike Franklin would upstage the PGA which was due to have its annual meeting the following Monday by calling our memberships to ratify settlement and we signed off.

Q. And this call that you speak of -- in order to make it clear for the record -- this call came from Universal Studios?

A. Yes.

Q. This is where you originally put your call in?

A. Yes.

MR. ORMAN: I have no further questions.

CROSS EXAMINATION

BY MR. SUSMAN:

Q. You mentioned Schweitzer referring to the PGA; is that the Producers Association?

A. Yes, Producers Guild Association.

Q. How did you happen to call Mr. Cinader on this

particular occasion?

A. I received a call from somebody here, I guess, the associate director of the Guild, Mr. Griffith had called my attention to an item in the Trades and asked me to check to see if Mr. Cinader was going in.

Q. Did you call other people during the course of the strike?

A. Yes.

Q. Were they primarily producers as well as writers, the people that you spoke with?

A. They were primarily members of our Guild who were -- we were told that were going into the studios.

Q. Were they also producers as well as members of the Guild?

A. I guess so.

Q. You were only zeroing in on producer hyphenates?

A. We zero in on anybody we thought was crossing the picket line.

Q. Primarily the people that you talked to were producer hyphenates; is that correct?

A. We were calling people who we were told were crossing the picket line and it also happened that most of the people that we called were producers, but we were not, per se, zeroing in on producers, sir.

Q. You know that Mr. Cinader was a member of the Producers Guild, I take it?

A. I did know that he was a member of the Producers Guild. I had been present at other times when Mr. Cinader

had identified himself as a hyphenate group member.

Q. Did you know that he was active in the Steering Committee of the hyphenate group?

A. Of course.

Q. You knew that before you called him?

A. Of course.

Q. Did you discuss that fact with any of the people at the Guild before you put in the call?

A. No.

Q. Is the only time that you talked to Mr. Cinader was between the period of June 7 to June 24?

A. To the best of my recollection.

Q. Did Mr. Cinader tell you in the course of that conversation that we was working as a executive producer and not as a writer?

A. Yes. As I said, he mentioned in the letter that he sent to management that he refused to write during this time.

MR. SUSMAN: I have no further questions.

MR. ORMAN: I have no further questions.

MR. LAVERY: The witness is excused.

Mr. Holtzman.

MR. HOLTZMAN: No further questions.

MR. LAVERY: The witness is excused.

MR. ORMAN: The Guild rests, Mr. Chairman.

MR. LAVERY: Mr. Holtzman.

MR. HOLTZMAN: Mr. Chairman, before we proceed with the defense case, I want to make a couple motions.

First, I think most specifically, I got to move to dismiss the first charge against Mr. Cinader, that is the charge that he is accused with having crossed the Guild's picket lines at Universal City Studios, Inc. during the month of June, 1973, without having informed the Guild in advance of the nature of his business with the company.

The motions made on the grounds that there are no evidence whatsoever that Mr. Cinader ever crossed a Guild picket line at Universal City Studios during that time or any other time. The only evidence I presume, Mr. Chairman, is that there is a picket line maintained at the most, once per week, and at the most, shortly before noon, and very early in the afternoon. There is no evidence that he crossed that picket line then or any other time.

Generally, I will move to dismiss the charge on each and --

MR. LAVERY: Is it your position, Mr. Holtzman -- the question in clarification?

MR. HOLTZMAN: Yes, sir.

MR. LAVERY: Is it your position that the Respondent did not cross the picket line?

MR. HOLTZMAN: Yes. Virtually, our position is that there is no evidence whatsoever that he did.

MR. LAVERY: That wasn't what I asked. I asked you is it your position that he did not cross the picket line or I will put another question to you.

Is it your position that he was not on duty at the studios at the times indicated?

MR. [illegible]: Let me answer the first question first.

Mr. Chairman, our position based on the evidence before this point is that he did not cross a Guild's picket line. I think that it is almost a matter of necessary inference from normal working day conditions, normal working hours that there was no picket line when he reported to work and that there was no picket line when he left at the end of the day. The only picket line was maintained was at an irrelevant period and approximately midday.

MR. [illegible]: You are aware of the fact that the existence of a picket line does not depend on the number of pickets or the hours of picketing. It is the question of whether or not the premises were struck.

MR. [illegible]: Mr. Chairman, I am aware of no such fact to the contrary. It would be our position to say vehemently that a picket line is that which is normally regarded in the English language as a picket line.

MR. [illegible]: You don't need a physical picket line, do you?

MR. [illegible]MAN: One or more people moving past a designated point or line and if the pickets leave and depart for somewhere else, there is no picket line.

MR. [illegible]: You mean it is like a magic thing like out of the old sentimental plays?

MR. [illegible]MAN: No, Mr. Chairman, it is not like something magic.

MR. [illegible]: If the circle of chalk isn't there, if [illegible] you don't believe that

there is a cloud over a place that is struck? Why, we have premises all the time, not necessarily the picture industry, without a single picket being there. Take the Teamsters --

MR. HOLTZMAN: Mr. Chairman, I think that there is a vast difference between struck premises and a picket line.

MR. ORMAN: May I be heard, Mr. Chairman?

MR. LAVERY: Yes, Mr. Orman.

MR. HOLTZMAN: May I go even a little further.

If it is the position of this Committee that a picket line may exist because the Guild has adopted a resolution that the premises have been struck whether there is a single, physically present or not, I would strongly object to that as a distortion of the English language and a distortion of the concept of a picket line. If it is the Guild's position that there is a metaphysical picket line present at premises because a resolution has adopted to that effect, whether there is one warm body on that line or not, and if it is the Guild's position further that as a result of that metaphysical line, anybody walking past that point is charged with knowledge thereof, I would say that this is in violation of fundamental concepts of fairness.

MR. LAVERY: You must not let my legal rhetoric confuse you.

Mr. Orman.

MR. ORMAN: In all due respect to counsel, he is always comparing apples and oranges. What may be picketing or pickets for the purpose of the National Labor Relations Act is not necessarily what is picketing for purposes of

this trial committee as the chairman has rightfully brought out. There is a distinction.

Counsel is saying that this trial committee must say as a matter of law, as we say in different contexts as a matter of law, there is no picket line, therefore, Mr. Cinader could not have passed the picket line. To the contrary, the Guild contends that this is a factual issue for the trial committee to determine based upon general knowledge, general practice, general procedure in the industry. Certainly, for purposes of this trial committee hearing, if it was well known and well established that the Guild had a picket line in effect as far as the Guild is concerned at Universal Studios, there is sufficient information whether or not there is actually a picket line there physically when Mr. Cinader passes the picket line.

I would go on -- continue with this analogy -- Mr. Holtzman is always the first one to say there are no writing duties and Mr. Holtzman refers to the Minimum Basic Agreement. Again, what is writing duties for the Minimum Basic Agreement, which is drawn up which is a contract, drawn up after there is economic struggle between the producers and the Guild and the producers are strong enough to say this is not writing, that is, people will not get paid for what they do. This does not mean this is conclusive on the trial committee for "what is writing for this trial committee",this trial committee has its right to make a reasonable deduction of what is picketing for purposes of the Guild's rules and regulations for which Mr. Cinader is

charged. It is not limited by what is perhaps picketing in a court of law. It is a different set of circumstances.

MR. SUSMAN: Mr. Lavery, may I have a word.

MR. LAVERY: Mr. Susman.

MR. SUSMAN: A long history of laboring this concept has never been there can be such a thing, a picket line symbolic, without pickets out there. This is an interesting thing, but when you have people hearing of this kind of a punitive hearing of this kind, every decision that is ever dealt with this sort of thing says that the Respondent is entitled to the strict instruction of the charges against him. How can you accuse him of crossing a picket line if there wasn't a picket line? It seems to me that it is that simple. When you get rid of all of the rhetoric, all of the charges have to fall because he didn't do it.

MR. HOLTZMAN: Just to pick up on what Mr. Susman is saying just for one brief moment, Mr. Chairman.

What counsel is postulating and I find that it is fascinating is the business of a picket line without pickets. It is a situation which cannot be seen; it cannot be felt; it cannot be touched.

MR. LAVERY: Are you familiar with the Dramatists' Guild strike, how many years so ago?

MR. HOLTZMAN: I am not familiar with the Dramatists' Guild strike. I am familiar with the English language. It seems to me that the English language is being grossly distored. The concept of fairness and justice is being ignored in what this Committee is doing. It is being asked

to hold -- without notice to the public, without any physical presence being physically detected by the normal sense. There is nothing more that can be said on this subject.

I would like to turn very briefly, Mr. Lavery, to the second point of the motion.

MR. LAVERY: Can't we dispose of them one at a time?

All right, proceed.

MR. HOLTZMAN: The second charge, Mr. Chairman, is that Mr. Cinader rendered service for Universal Studios, Inc., a company against whom the Guild was at such time on strike. I point out to the Committee that there isn't an iota of evidence which supports this charge. At this point in the record, the taking of the evidence most strongly in favor of the Guild, Mr. Cinader received a telephone call at the studio premises and returned a telephone call, the returned call having been placed by his secretary. That's the evidence. To draw an inference from that, that he was rendering service during that month of June and even for that moment even during that telephone call is again impermissible. The Guild has certainly not met up with its burden of proof on the subject.

MR. ORMAN: May I be heard, Mr. Chairman?

To the contrary, the evidence was that he informed the Guild witness that he was performing his duties as executive producer, that was the inference of the interrogation, at least, by Mr. Susman, and he said that -- and Mr. Schweitzer testified, yes, I am aware that Mr. Cinader was at Universal Studios at least as an executive producer. We

would at least establish that much based upon the examination by Mr. Susman and so we do have him at Universal Studios performing services.

There is a further question of what the services consisted of, but you have not yet reached that. We have not reached it. You have merely denied the fact that "he is not performing the services"or that we have established this in evidence.

MR. HOLTZMAN: I was hoping to get out of this on the easy point. My notes indicate that the evidence was that he was a producer, that he was working as a producer. If contrary to my recollection, there is evidence that he was working as a producer. I must necessarily then point out that this is not a matter of which this Guild or this Committee can at all be concerned. It is concerned with writing services, and we are not being asked to direct out attention to the matters which are outside of the scope of The Collective Bargaining Unit and manifest beyond the business of the Guild.

MR. LAVERY: Well, I don't think that it serves any purpose to exchange rhetoric at this point, but perhaps the Committee should take a few minutes to consider the few motions unless they are ready to dispose of it now.

Let's adjourn.

(Recess.)

MR. LAVERY: Are we all here?

The hearing will resume. The panel has considered both motions at some length and the motions are denied.

MR. HOLTZMAN: May we proceed, Mr. Chairman?

MR. LAVERY: Yes, indeed.

MR. HOLTZMAN: We would like to ask first that the Constitution and By-Laws of the Guild be deemed a part of the record at this proceeding.

MR. LAVERY: Agreed.

MR. HOLTZMAN: Otherwise, the case of the Respondent will be presented by Mr. Susman.

CAREY WILBER,

called as witness on behalf of the Respondent, testified as follows:

EXAMINATION

BY MR. SUSMAN:

Q. Are you a member of the Guild, Writers Guild?

A. Yes.

Q. Have you been for some time?

A. Yes, about 20 years.

Q. During the course of the strike which ended on June 24, 1973, did you serve in some capacity?

A. I was co-chairman of the strike services committee.

Q. And in that function, did you have occasion to assign Mr. Cinader to any duties during the strike?

A. Yes. He was assigned to picket duty, I believe, in the first week of the strike. I spoke to him myself.

Q. And did he serve --

A. Yes.

Q. I have a note here that during the course of the strike, he served about a hundred hours or so from time to time to picket duty, would that be consistent with your recollection?

A. Well, during all of the time that we had regular picketing, Mr. Cinader was assigned to 20th Century Studios. I believe he was absent one day because of a dental appointment, but he made that up in a subsequent shift. I would say roughly about a hundred hours, yes.

Q. Would it be fair to say that he was one of the most reliable and conscientious of the people who served on picket duty?

A. Yes, I would say so.

Q. As a matter of fact, did he agree to serve on picket duty subsequent to the end of the strike?

A. He was assigned to a mass picketing demonstration the week following the end of the strike, but he was contacted and had agreed to serve.

Q. Well, let me ask you one other question.

Are you familiar with this procedure that existed between June 7 and June 24 where there was no pickets as such except on an infrequent occasion during a two-hour period when the so-called mass picketing took place?

A. Yes, over my objections the council decreed in May that they would no longer have regular picketing, pickets were to appear once a week at various designated targets throughout the industry. The mass picketing demonstrations lasted about two hours from about 11:30 to 1:30 daily. I

believe that during that daily --

Q. Daily, do you mean weekly?

A. Once a week, on a Wednesday. Wednesday was the day for this. I believe on those occasions -- during that whole period, that whole period, I believe that Universal was picketed twice. We picketed -- we had mass demonstrations at all of the other studios and at popular demand, we went back to Universal.

Q. Now, is it also correct that except for this once a week two-hour mass meeting demonstration, I believe, occurred twice during the period of June 7 to June 24, at no other time were there pickets at Universal as being as such?

A. No, there was no other picket at Universal. There may have been. I am not sure. We may have obtained weekend pickets on the Universal Tours. I am not sure; I do not know.

MR. SUSMAN: I have no further questions.

One other question.

Q. When you gave the people whose duty it was to give such instructions, did they give instructions to the pickets? Did it have to be two on duty at a given station in order to constitute a picket line?

A. We were told that a legal picket line constituted two pickets at each entrance and to a struck facility.

MR. SUSMAN: No further questions.

MR. LAVERY: Mr. Orman.

MR. ORMAN: Yes.

CROSS EXAMINATION

BY MR. ORMAN:

Q. Mr. Wilber, I believe your testimony was that there was mass picketing at Universal Studios only about once a week during this latter period of the strike?

A. No, it was not once a week. A mass picketing was divided among all of the studios once a week. It was one at Universal, Warner Brothers, the networks, 20th Century Fox. I think that we mass picketed Universal during that period.

Q. If evidence was presented to show that there was more than mass picketing of Universal more than twice during this period, would you say this was wrong or would you refer to some more specific knowledge?

A. Well, I would say that it was an error because we had definite rosters made up on the studios that were to be struck and I am sure that consulting the rosters, that you will find that we only picketed Universal twice in that period.

Q. Now, I did not really understand you when you said that Mr. Cinader volunteered or did picket after the strike?

A. He was assigned -- he was assigned to a mass picketing line at 20th Century Fox which was due on a Wednesday following the strike settlement. We made up our rosters for that picket line, of course, well in advance. He was assigned and accepted the assignment, but he didn't actually picket.

Q. Well, could we be a little more specific as to when Mr. Cinader actually did picket. You say, if I remember you correctly, perhaps a total of a hundred hours?

A. The first week he was assigned, the first week of picketing.

Q. Are we talking about March?

A. This was in March, I presume the first day we started the strike. I think that was on March 6.

Q. Right.

A. In that first week, he was assigned, I believe, three hour-shifts per day for four days. The third week, he did three hour-shifts per day for four days. We then changed our picketing assignment so that he was picketing once every three days, every two weeks rather, three hours per day for five days.

Q. Do you know -- did there ever come a time when he ceased picketing during the course of the strike?

A. There was only one occasion when he called in that he had a dental appointment and he was excused and he made up the time subsequent.

Q. Is it your testimony that Mr. Cinader picketed regularly during the month of June?

A. No, because we did not have regular picket lines in the month of June.

Q. Is it your testimony that Mr. Cinader picketed during the month of July?

A. No, he was not called to picket except on the occasion that I mentioned at 20th Century.

Q. What date was that?

A. That was the Wednesday following the settlement of the strike, that would be about the 15th, I believe.

Q. Then is it your testimony that Mr. Cinader did not picket during June?

A. He did not have picket duties during June. He did not have any picket duties during June.

He had picket duties during March, April, May and -- wait a minute -- excuse me -- March, April and May, I guess.

Q. In other words, Mr. Cinader did not picket during the month of June at all?

A. No.

Q. Did you know Mr. Cinader prior to this strike?

A. I have known Mr. Cinader approximately 20 years.

Q. So your answer is yes?

A. Yes.

Q. Did you know that Mr. Cinader was some times engaged as a producer?

A. Oh, yes.

Q. Did you have discussions at any time with Mr. Cinader during the course of this strike as to his functioning as a producer?

A. No, no I did not have any discussions with him.

Q. When it was Mr. Cinader's time to picket, did you call him up and say it was time to picket, or what?

A. No, our procedure was -- the way we started lining up for picket duty, was the week before the strike

beginned. I called Mr. Cinader, a member of the Guild, and I assigned him to the first week. At that time, Mr. Cinader said that he had been planning a vacation in Hawaii for about two weeks. I told him that if he picketed this first week, that he would then take the time off and he would have to make it up later instead of -- after the first week, Mr. Cinader said that he would not take his vacation, that he would consent to picket until the end of the strike, and these rosters were made up at strike headquarters. I did not have any occasion to have direct contact with Mr. Cinader regarding his assignment after that except a note that he was always present.

Q. I take it that you had at least two conversations with Mr. Cinader, the first one being which you set up original picketing for him?

A. That is right.

Q. And he said that he will have a vacation and in a second conversation which he said I will not take a vacation --

A. And one other one that he had said that he indicated he had a dental appointment which he asked to be excused, and he made it up later.

Q. Did you have any conversation with him about him performing any services for Universal?

A. In what period?

Q. During this period, during these two discussions?

A. No.

Q. Did you ever have any discussions with Mr. Cinader

during the entire strike period?

A. Well, I met him on the picket line. We exchanged views.

Q. Well, what views did Mr. Cinader have?

A. Well, it was a badly managed strike.

Q. In what respect, can you amplify what he said?

A. He criticized the nature of negotiations, but, of course, he was not the only one that did that. We had a number of them that criticized the negotiations.

Q. Did he make any other comments?

A. None, except that he felt that like a good many people did, he was stuck in an untenable position.

Q. Untenable position, do you mean that he was also a producer?

A. He said that we were all losing income, but we are not getting anything out of it.

Q. He said we are all losing income, but we are not getting anything out of it?

Was he referring -- do you know -- to himself as a writer or as a producer?

A. He was referring to every member of the Guild.

Q. Are you saying that he thought that there was not going to be any results beneficial to the writers even after the strike?

A. No, not that I can recall.

Q. But did he -- if I understood you correctly, during the course of your conversation with Mr. Cinader, did he mention that he was a producer and, therefore, he was in

an untenable position?

A. He did not speak of it in terms of his personal position or personal feeling. He spoke of it as a member. He was speaking in general as all of the members of the Guild. His feeling was that we had really botched the negotiations and botched the strike.

Q. How long did the conversations last?

A. They were only conversations for four to five minutes when I would run into him on the picket line.

Q. During the course of the strike, did you have any other conversation with Mr. Cinader on the picket line?

A. No.

Q. Was it ever brought to your attention that Mr. Cinader was working at Universal Studios during the month of June?

A. The first time I knew of it when I saw an item in the Trade.

Q. Do you recall what that item said?

A. No, I do not recall the exact wording of it except that he reported to work.

Q. Did you have any conversations with Mr. Cinader with respect to this item in the Trade?

A. No, I had no reason to.

MR. ORMAN: I have no further questions.

MR. HOLTZMAN: I have no further questions.

MR. SUSMAN: None.

MR. LAVERY: All right. The witness is excused.

MR. SUSMAN: Call Mr. Cinader as the next witness.

ROBERT A. CINADER,

called as a witness in his own behalf,

testified as follows:

EXAMINATION

BY MR. SUSMAN:

Q. Mr. Cinader, how long have you been a member of the Writers Guild?

A. I think since 1963 or possibly '62.

Q. And are you also a member of the Producers Guild?

A. Yes.

Q. Have you been active in the administration of the Producers Guild?

A. No.

Q. Pardon me?

A. No.

Q. Were you involved with a Steering Committee that was set up at some time during the past year having to do with the status of hyphenates?

A. Yes, I am chairman of the Steering Committee, but that committee has no connection with the Producers Guild.

Q. When did you become chairman of that committee?

A. Probably some time in March. It was a meeting of we called Ad/Hoc Committee of the Sportsman's Lodge. I selected a Steering Committee off the floor and the Steering Committee subsequently elected me chairman.

Q. Did that committee comprise of so-called hyphenates?

A. Yeah.

Q. By hyphenates, I mean men and women conceiveably who are members of the Writers Guild and members of another guild as well; is that correct?

A. Well, yes and no. The committee was comprised primarily of hyphenates because of the grandfather clause in the Producers contract. There is a considerable number of producers that did not belong to the Producers Guild. The stipulation was that anybody that was employed at the time that the NBA went into effect, didn't have to join until he got his own employment. So there is probably about a dozen producers at Universal like George Epstein and Bill Link and Dick Levinson who were hyphenates and who were members of the PGA.

Q. The Steering Committee had to do with members who were both members of the Writers Guild and also had a producers function whether or not they were a member of the Producers Guild; is that correct?

A. Not -- I don't want to argue the point -- but not specifically. There were story editors involved, Mr. Furia was one of them when he was a story editor as well as a writer. I think there may have been one or two others, but most of them were working producers and members of the Writers Guild.

Q. Very well. Let me go on. The strike began on March 6, 1973, I believe.

During the month of March, 1973, did you go to work?

A. No.

Q. After the strike began?

A. No.

Q. Incidentally, where were you employed and what were your duties at the time that the strike began?

A. At the time that the strike began, I was employed by Universal Studios on the Mark VII, Limited which is a Jack Webb Company as the producer story-editor of the Emergency T.V. show.

Q. During the month of April, 1973, did you go to work?

A. No.

Q. During the month of May, 1973, did you go to work?

A. No.

Q. At all?

A. No.

Q. First day that you went to the Universal Studio lot after the strike began according to my information was June 7, 1973; is that correct?

A. Yes. I just want to check that, yes.

Q. Prior to the time that you went on the Universal lot on June 7, 1973, had you entered into a new arrangement with Universal with regard to your duties and functions?

A. Yes.

Q. And would you tell us what that was?

A. Well, at the time that the strike was called, I had a dual function, part of which was a producer of a story which was a story-editor. This coupled with other

factors precluded my ability to function because I was making five sixths of my income primarily speaking because of a story-editor because of my development of my orginal deal with Universal. That was a function which clearly came under the Guild, in my opinion and this was a suspended agreement. The studio made several efforts to induce me to go back to work in a combination of threats and promises, mostly coming from the package, rather than from the studio administration. My position was that I wasn't in a position where I could do it because of the story-editor function. The week that I went back to work, I was told that if I would function as executive producer, they would tear up the old contract which would eliminate any story-editor function from my old obligation to the studio. I told them that that partially solved my problem in terms of my own understanding of the jurisdiction, but I couldn't be sure that they were doing it in good faith because at that time among the hyphenates, there was a great deal of confusion about how sincere the studios were by not requiring you to write.

One of the hyphenates -- I won't mention his name -- told me that he wasn't going to write. They didn't want him to go back. I don't know if that was true or not, that is strictly to demonstrate a climax. So I said if they were willing to destroy my old deal with them and to wipe it out completely and to take the position of an executive producer, that I would have no running obligations at all, if they would execute an agreement which I drafted myself in part, absolutely stipulating to this, then I would consider

that I was not in a position of conflict.

So I drafted an agreement which I cleared with my attorney then he read it to their attorneys, and I said that I won't come into the studios until that is executed and deposited with my lawyer. I do not have any copies here for you.

Q. There is no need for it.

A. Anyway, this agreement specifically sets forth that under no circumstances could they require me or permit me to do any writing and that they could not consider me to be in breech of contract by my failure to do any writing as long as the conditions of the strike lasted. They indicated that they would be totally willing to sign it. It was signed jointly by the studios and Mark VII, Limited and at that point I told them that I would return and I did which I went back in on the 7th of June which is 12 working days before the end of the strike.

Q. Well, am I correct that you did not perform any writing services during the period of June 7 until the end of this strike?

A. I did not.

Q. Now, when you came back to work and during the entire period, during the working days from June 7 and to June 24, at any time going to or coming back from the studios did you ever cross the picket line?

A. I did not. Well, I would like to point out that --

Q. There has been some testimony that during the period of the strike that you served a hundred hours or so

on picket duty --

A. Yes.

Q. And I understand that you would like to correct one statement made by Mr. Wilber --

A. Yes.

Q. -- that is having to do with picketing duties during the month of June, 1973?

A. Yes. Carey's recollection was incorrect. There was one period between the end of the weekly or daily picketing when they started demonstration of mass picketing at which there was a demonstration procedure at Fox which involved about a hundred pickets and I served on that picket line which is where I got into a conversation where Schweitzer was referring to. I was then called subsequent to picket following the end of the strike and I told them that notwithstanding the fact that I was returning to work -- of course, that picket line was obsolete because of the fact the strike was settled Sunday night, June 24. I forget what day, but he said it was a Wednesday. I have a recollection that we were supposed to picket Monday morning, but in any event, it was scheduled after the 24th and that was eliminated automatically.

Q. When you came back to work on June 7, was it as an executive producer of the Emergency and Adam 12 -- Emergency and Chase?

A. Yes.

Q. And as the executive producer of the show, you served in an executive and supervisory capacity?

A. Yes.

Q. Did you hire people?

A. Yes.

Q. Did you have the authority to discharge people?

A. Yes.

Q. Did you have the authority to assign them to their duties on the show?

A. Yes.

Q. In other words, is it correct to say that you served as an executive under the management of the studios and of the Jack Webb Company; is that correct?

A. That is correct.

Q. And with regard to those two shows, yours is the ultimate responsibility as the executive producer; is that also correct?

A. Technically speaking, I would think that Universal and Webb have the ultimate responsibility since they own the packet, but in all technicality --

Q. But in all actuality, you are responsible for getting the shows done; is that right?

A. Yes.

Q. Is that a photograph that you have taken on picket duty?

A. Yes.

MR. SUSMAN: I am not going to offer it because it is only cumulative, but I thought that the Committee would like to take a look at it.

THE WITNESS: It was taken by an actor who is a very

bad actor and a very bad photographer but he was trying to get points.

MR. SUSMAN: I have no further questions.

MR. LAVERY: Mr. Orman.

MR. ORMAN: Thank you, Mr. Chairman.

CROSS EXAMINATION

BY MR. ORMAN:

Q. Mr. Cinader, if I understand your testimony, you said that before you went back to Universal, you insisted on drawing up a new contract in which you would no longer be story-editor on Emergency; is that correct?

MR. SUSMAN: Did you say that he will no longer be story-editor?

MR. ORMAN: Story-editor.

THE WITNESS: No. To put it more accurately, because of the fact that the studio, specifically Webb was more aware of the fact that I would not come back unless they would offer me a new deal as an executive producer which would eliminate -- which obsoleted the contract I had with them which according to their theory that I was technically in breech of it.

Q. Do you have a copy of this new agreement?

A. No, because I don't think it has been reduced to writing by the studio. The agreement that I insisted upon, I don't think that was reduced to writing before I went back. It was under the sign of the other one in which they guaranteed me that under no circumstances could they require me to write

as part of my function.

Q. Do you have a copy of that?

A. I have a copy of that.

Q. For the strike, before the new agreement, what was the capacity that you were employed in?

A. I was the producer of the Emergency television series.

Q. Producer -- I am sorry?

A. Yes.

Q. Of Emergency?

A. Yes.

Q. And then you went into a new arrangement in which you became a new executive in the series Emergency --

A. And Chase.

Q. And Chase. Is that the second series?

A. Yes.

Q. Can you tell us whether or not there was a story-editor working on Emergency during the course of the strike?

A. Well, there were people who was obviously working on scripts. I don't know whether you call them story-editors and I don't think from the evaluation of the material I would call them story-editors.

There were scripts that were written during the strike.

Q. Did you see any of those scripts that were written during the course of the strike?

A. Yes, when I went back, I read all scripts

including the four scripts that were written by Guild members that were written even before the stirke.

MR. ORMAN: Mr. Chairman, could I have the reporter read back the last answer.

(Record read.)

Q. BY MR. ORMAN: Is it your testimony that you saw the scripts that were written during the course of the strike?

A. Yes. I read all of the scripts that were written during the course of the strike.

Q. On both Emergency and Chase?

A. Yes.

Q. For what purpose were you reading those scripts for?

A. I was reading those scripts for the purpose of the determining whether or not there was any value in the material. When I say reading the scripts, I should amend that to reading the scripts that were written during the strike as well as written before the strike, because in the case of Emergency, there were four scripts that were written Guild members who were turned in before the strike, and I think three or four scripts that were written on Chase before the start of the strike.

For the record, the scripts that were written before the strike were filed with the Guild as of the strike date, if I may add, to protect the writers who wrote those scripts.

So I had between the two scripts eight scripts -- I suppose that you would say -- legitimate and then maybe,

I don't know, seven, eight or nine more that had been scrounged from some place during the course of the strike.

Q. Is that six or seven or eight for both Emergency and Chase or six, seven, or eight for each one?

A. It is hard for me to say because that material is in a very disorganized form. In some cases, there were --

Q. I was asking you, I want to know the number of scripts that you received and read on each series during the course of the strike?

A. I would say maybe including the outlines or very brief story ideas, maybe about five or six on each one. I don't have any real recollection of it specifically because most of the material was so obviously useless that I just kind of read it and threw it in the out basket.

Q. Then is it your testimony that the purpose of the reading of the scripts were to see whether they were useable or not?

A. Yes.

Q. Would it also be correct to see whether or not there would have to be changes to be made in the scripts?

A. Yes, obviously, the useability would depend on work done because none of the material passed the advance first stage and you very rarely get a first shoot that is shootable.

Q. Is it fair to say that you would make a mental or perhaps written notation that perhaps this scene would have to be changed?

A. Well, let me put it this way. With respect to

the Chase material, I determined that none of the material was of any use at all including the pre-strike scripts. In the case of the Emergency material, I determined that two of the first draft scripts were shootable with no really creative work being done on them and I did not progress my thinking as to what would need to be done past that particular point.

I read the material and I said that these two scripts which were both written by the Guild members, you can go ahead and set them up for production because they are shootable.

Q. Who did you say this to?

A. To the unit manager who schedules the physical production of the show.

Q. Did you discuss these two useable scripts with the director?

A. Yes, I discussed one with the director because the normal working procedure is, as you gentlemen know, when you prep a show, you don't usually do it no more than a week or so before it shoots. So the only one that was being prepped, the first script of Emergency was being shot. None of the other material was shootable. There was discussions with the director on the prepping of the first Emergency scripts which I said had been written before the strike.

Q. All right. Can you tell us the discussion in terms of hiring the actors, in terms how you are going to shoot it, in terms of what?

A. Mostly it was a question of how it was going to

be shot because Emergency involves a great deal of physical rescue work because of the incidents written by the writer. And then you have to go and find some place for a guy to fall off a cliff and the normal part of my function is to go out with the director and discuss with him the feasibility of physically staging what the writing has indicated that he wants to do.

Q. And would it be fair to say that at least whether or not to some of these things you determined whether or not they were physically or financially feasibile to shoot the scene as written and therefore they would have to be either dropped or shot in a different way or changed in some manner?

A. I do not know if that's a question that can be answered explicitly because the point is that you usually, when you are doing in this particular show, I am not generalizing now a rescue, but the dialogue which is possibly the blood pressure is 180 over 20 will kill you no matter what the guy fell off of.

So this mostly consisted of going up the mountain with the director and saying that he fell off of the cliff over here and the director said that I can't get the camera down in there, and then I say let's go think of some place else. There isn't too much of creative writing in this show of Emergency except when you get into attitudes with the winning character and when they are doing their acts, it can be technical and there is a great deal of work done on the dialogue, mostly by doctors, because if they said he had

no symptoms, then he would have been dead for six years.

Q. You discussed, I think, the first show for Emergency quite thoroughly.

A. Yes.

Q. I think you said it was the second script that you felt was useable?

A. Yes.

Q. Did you have any discussions with this second script with anyone?

A. No, because the first show on Emergency was scheduled for principle photography on the 26th of June which was two days after the strike was over and the way we work is that we never start planning the second show until the first show is launched. So I would not have gotten into any discussions with the director because under that contract, they don't report that far in advance. Anyway, until Wednesday the 27th of June after having launched the first one, I then sat down with the director and said listen guy let's screw up the second one, but the second script was written pre-strike.

Q. Was there anybody functioning as a story-editor in reference to those two scripts during this period?

A. Well, in the manner of speaking, I suppose you might say that somebody was because there are a great many people involved. For example, to illustrate, I have a script secretary who is full time to do nothing but coordinate with the Harbor General Hospital and the Fire Department on Emergency to find out what technical provisions have to be

made and that writing is done almost automatically by her because if she goes to the hospital and the doctor says change the symptoms, the symptoms are of no interest to us for the dramatic purpose. That script was revised according to my record six times between the time it was initially published and the time that it was finished.

Q. As your script secretary, you say, take care of these technical matters, does she discuss those proposed changes with you before she incorporates these changes?

A. Yes, she says -- if the doctor says change the symptoms, what do you want from me. I don't know whether they are right or not.

Q. And she tells you what the doctor says?

A. Yes. He will say you have a guy, give him an intravenous injection of D5W -- which I don't know what it is -- and she will make it Wringer's Lactate and I will say wonderful; I don't care.

Q. Now, in regard to this other series in Chase, how many scripts you say that you had on Chase?

A. I think -- with scripts and outlines --

Q. Scripts and outlines?

A. I say maybe there was about eight pieces of material. All of which I suggested that they abandon rather thoroughly.

Q. And you said that you read all of the eight scripts?

A. I might say that on the Chase situation, that it was due to go on the air September 11. We did not start the

principal first photography on the first episode until July 31 which gave us 42 days. The first script was assigned that I made on Chase would have been filmed was made on July 3.

Q. But you were reading these eight scripts --

A. I was reading the material for the purpose of making a determination as to whether or not they were useable.

Q. And you are making a creative determination whether the scripts was acceptable?

A. Useable.

Q. Useable?

A. The network decides whether they are acceptable.

Q. You were saying that in this case, you found them completely unacceptable?

A. Yes.

Q. And in this situation, would it be a fair statement to say that you may might have determined that this script is useable if it had this changed and that changed and a few other changes?

A. Well, theoretically, with respect to other series, I might have made that determination with respect to Emergency because the point is that Emergency was an established show which I had created and established.

With respect to Chase, I thought the whole basic concept was at fault and the first thing I did after I got into there was to tell them that I didn't think that it was valuable in the form that it existed.

Q. Now, let's see, did you say that you created

Emergency?

A. Yes.

Q. This is your creation?

A. Yes.

Q. And originally, you were to be producer story-editor?

A. I was for two seasons prior to the strike.

Q. And Chase was created by someone else?

A. Yes. Chase was written and -- well, it was based on an idea that I originally had which is under arbitration, but it was by Steve Cannell and produced and directed by Webb prior to the commencement of the strike. And I had never seen the show prior to going back to the studio and after I saw it, I wished that I hadn't got back.

Q. Aside from the fact that you may or may not have some creative rights in the case, before the strike you had no other function with it?

A. No, I was not intended -- I never intended to have any function with it unless arbitration found out that I were to get separation of rights, it was not intended that I would function on the show.

Q. Was there an assigned producer for Emergency during this period that you were executive producer?

A. You mean after I came back to work?

Q. After you came back.

A. I hired a producer to produce Emergency for me once I got the -- you know, I had this other responsibility. I staffed a line producer.

Q. When did you hire this line producer?

A. Oh, I probably discussed it after a week after getting back, but I can't recollect how soon after that, but I made provisions to hire.

Q. You say that you discussed it with somebody?

A. I discussed it with the studio about bringing in another line producer to produce the show.

Q. When you finally did hire the producer, line producer to produce the show, when was -- when is the date that you first contacted this subsequent producer?

A. Probably about the same time that I discussed it with the studio. Let me clarify. It was obviously customary in the current trade practice that when they brought me back, that they would staff a line produce on each show to do the same work that I had done in the previous season when I was going on as the producer.

So, when I got back, we started discussing about manpower, who would we bring in to do the two series in terms of being one of the producers.

Q. I recognize that, but when did this line producer for Emergency start functioning as a line producer?

A. I can't honestly tell you specifically, but it was some time prior to the commencement of the photography of the first episode. I think that he may have reported the day after the strike as a matter of fact.

Q. In other words, is it your testimony that there was no line producer until the strike ended?

A. No, I am not sure that is true. He may have been

there before, but the point was that -- the thing is this that when I came back, it was already determined that they would start principal photography on Emergency on June 26 because the cast notice had been sent out which legally bound them to do the production. The only thing I did was tell them do the script because it is passable. I don't remember -- I am not being evasive at what point that he actually moved into the office and started functioning. I don't know if it was prior to the commencement of photography.

Q. When did they get a line producer on Chase?

A. We didn't get a line producer for Chase until probably about the 28th -- well, that is not true. One of the Mark VII executives was functioning as a defacto line producer on Chase, but only in a temporary capacity until I could hire somebody that I wanted and I didn't bring the permanent producer in until about the 28th of July.

Q. When was somebody functioning as story-editor for Chase?

A. Well, the temporary line producer and I was both performing functions from July 30. As I say, I did not make a script commitment on Chase until the 3rd of July. The only thing that I had done between the 7th of June and the 30th of July was to tell them to burn everything that they had because it stunk.

Q. About how many hours per day were you at Universal before you reported in on June 7?

A. Oh, I would say maybe eight or nine hours a day.

Q. Will describe basically, not obviously in small

detail, how you spent your time during the course of an average day.

A. Yes. I spent most of my time in an average day -- let's put it this way. You mean between the end of the strike and the time that I went back to work. I spent most of my time reading the material and I got into difference of opinion with everybody about the construction of Chase and I spent about 30 percent of my time during that two-week period arguing.

Q. In what respect did you have difference with him in regard to the construction of Chase?

In what certain respects did you have differences of opinion with him in regards to Chase?

A. Well, the differences of opinion that I had with him was that he thought that the pilot was to do the series and I didn't think that it would work as a weekly series and I told him that I wanted to restructure it.

Q. In other words, is it your testimony that you had a difference of concept of what Chase should be about?

A. Well, slightly. I had written an original pilot script for the basic idea of Chase before I was superseded on the project and I wanted to go back to the idea -- more in the direction of the idea that I had than in the direction in which he had made the pilot, and so we got into a big ego trip about this whether we were going to do it his way or whether we were going to do it my way.

Q. In other words, you were trying to convince Mr. Webb that he should shoot it as originally written by you?

A. I was trying to convince him that if I was going to be responsible for the show that I wanted to do it with more of the values that I had orginally constructed than the way it was being done.

Q. What do you mean by values?

A. Well, it is a question of direction which goes with the show. He had taken the show that I had originally developed as a police -- and he had converted it into a hardware show, where the principal features of it were a souped-up car and a motorcycle and a helicopter and I told him in my opinion I didn't think that he could sustain it on a weekly basis especially with helicopters. It was also too expensive. So I wanted to restructure it to give it a more of an approach to characterization and such.

Q. All right. Do you spend a substantial amount of time arguing with Mr. Webb and also the network more or less to the structure of Chase?

Now, can you give us any further information as to how you spent your time while you were there functioning as an executive producer?

A. Well, I had a great deal of problems more or less of a mechanical nature of Emergency because the first show, as I said, which was written, created certain technical problems in production, plus the fact that I had a new cameraman that I had hired before the strike had started that was coming into the new season, one of my stars took exception to him, so I had to cool him down on it, and also cool down some other people on it.

I spent some time during that period because I had no free time that I would normally have to do some riding around with the Fire Department which I normally do to get more technical expertise on the series.

Normally when I am not in production of a show, I will devote 10 to 12 hours riding with rescue squads all over the County, just to get first-call feel of what it is actually like.

Q. Now, you stated that you found two scripts for Emergency useable and told him to shoot it?

A. Yes, I had four. Two of them were passable in the first draft. The other two could not be shot without major rewrites which I could not do because the writers who originally had written them prior to the strike under the old contract were precluded from being able to work, so I tabled those scripts until the writers were available.

Q. In other words, you made mental notations to yourself to have conversations with these writers after the strike?

A. No, I don't work it like that way. The way I work it is that I read the scripts and I and I said the dam things won't work. I put them aside. And I said when I get ready to get into it with them, I will get into it with them. I don't make notes because I will forget them. When I read a script, all I do is read to see whether it is in the ball part. If it is not, I say get the writer I have to have a meeting with him and you don't think about it until then. You sit down and you say let's go over this page by

page and let's find out if there is a way that we can fix it.

Q. All right. But it is a fair statement to say that you made certain mental notations to yourself that after the strike you're going to discuss two of these scripts with writers because they could be useable with certain corrections.

A. No, I would put it on this basis, the writers have a contractual, professional obligation to give a rewrite and polish it. If he ruins the first draft and it isn't useable, you say I had better get the guy in here to see if he can rewrite it so that it will be useable.

But your basic judgement, at least it is for me, when I look at a script, I determine whether it is useable or isn't useable. The thing is I handle so many of these things that if I depend on mental notes, by the time that I meet the guy, I will have forgotten what it's all about anyway.

Q. Do you make any written notes?

A. No, I don't make written notes, not at all. I do make a mental observation and if the script won't work, then when he gets in, we will go over it page by page across the desk.

Q. Is it a fair statement that summing up your testimony, you have found that two scripts of Emergency were not useable and you told the persons to go ahead and shoot the scripts, two, you decided they could be useable with some changes after the strike; is that it?

A. Possibly.

Q. As regards to six or eight scripts that you have to change, you determined all of them were unuseable?

A. Yes, in my opinion, there was no point in even trying to fix them up.

MR. ORMAN: All right. I have no further questions, Mr. Chairman.

MR. LAVERY: Are there any other questions?

REDIRECT EXAMINATION

BY MR. SUSMAN:

Q. The questions asked by Mr. Orman wasn't clear to me when you did the script reading and script evaluation. Was it after you came back to work on June 7th?

A. Yes. I had been asked by a number of people including the actors to look at the material because the actors in the Emergency series with whom I had a very close relationship with were very unhappy with the material and I told them that I wasn't going to mess with it because first of all I did not think it was proper and second of all, the only constructive value that I could get out of the mess was to suggest how to fix it which I wasn't proposing to do because that would put me in a position of working for the studio under the table which I wasn't prepared to do.

MR. LAVERY: All right, then --

THE WITNESS: I would like to add one point to that. The third script we shot which went into production on June 27th -- because I have a very-very personal relationship with the stars of that show in which we have a meeting every week

in my office when we go over the material for attitude and characterization and it is tailored to them. They were beefing me the entire time that I was back because they thought that the entire script stunk and I said it is tough because if the studio is determined to shoot on the 26th, you are going to have to do the script the way it is written because I am not going to change it. Now, if you don't like the dialogue, improvise, ad-lib, but I am not going to change it.

BY MR. SUSMAN:

Q. I am trying to establish dates, now. The script of evaluation process that you went in response to Mr. Orman's question, he referred to during the strike, but actually it was close to June 7; is that correct?

A. Yes.

Q. And between March 6 and June 7, you did not have the scripts?

A. No, I had no connection with any aspect of either show between March 6 and June 7.

Q. Now, is it a normal function of the executive to read and evaluate scripts for the series of which he is the executive producer?

A. I would presume so. I don't know how you could be an executive producer if you don't read.

Q. Very well.

A. Unless you are somebody relative.

Q. The next line producer and since this transcript may be read by others not being familiar with the industry, I think it will serve a purpose for you to explain the

difference in functions between the executive producer and the line producer.

A. Well, fundamentally, it is an individual relationship problem. The way I function is because of the fact of more than one show. I can't be in all places at the same time. The line producer has all of the producer's responsibility. I think my responsibilities are optional though. I may or I may not go here; I may or I may not go there. The line producer has to do all of those things, otherwise you got no control. It varies from, I say, individual circumstances to others. I say, if I get into a situation where I got a line producer where I don't think he is functioning correctly, then I will personally do it myself to keep it from the point of going to the director. But normally it is to leave me the flexibility of having a backup in case that you are pre-empted by other situations.

Q. Does the line producer have more of an actively labor perhaps connected with it?

A. He does more of the routine procedures. For example, one of the particular points is that I delegated to the line producer is complete casting because it is too time consuming for the amount of value you get out of it in the kind of shows that I do because the cast are not that critical.

Q. In other words, the line producer does whatever from instructions that you assign to him; is that correct?

A. He does all of the producer's functions from time to time. I merely supersede him from time to time

depending on the specific circumstances.

Q. And a line producer reports to you as an executive producer?

A. Right.

MR. SUSMAN: I have no further questions.

MR. LAVERY: I think Mr. Seaton has some questions.

MR. SEATON: I just want to clarify a couple of things.

Prior to June 13, you were on picket duty, you did not go into the studios?

THE WITNESS: June 7th.

MR. SEATON: I mean June 7th. You also agreed to picket -- you were scheduled to picket after the strike ended.

Now, as head of the Steering Committee of the Hyphenate Committee, am I not correct that you urged vehemently for others to stay out and honor the picket lines?

THE WITNESS: Not entirely. The position that we took on the Steering Committee and we took on the lobby was, the lobby was collectively supporting the strike, but we would not take individual attitudes, and why it was at one point, Johnny Furia and John Mantley was both on the Steering Committee. We had made a very early determination that it would be silly for us to get into an editorialized position on personalities and some guys had -- we had a situation where Norman Lear and Aaron Spelling were on the Steering Committee and they were both signatories and they weren't involved in the strike in a manner of speaking. And this determination had been made very early on and it is why John and John both felt that they could both sit on the same

committee together. We just didn't take a position on the balances and passing a resolution in support of the strike.

MR. SEATON: Now, I just want to get some dates. You returned on June 7th?

THE WITNESS: Yes.

MR. SEATON: And you read some scripts?

THE WITNESS: Yes.

MR. SEATON: But nothing went into work until after the strike was finished. I mean not until July, nothing went into production?

THE WITNESS: Well, yes, Emergency went into production two days after the strike was over.

MR. SEATON: That is what I say.

THE WITNESS: No, there was no production at the time of the strike.

MR. SEATON: So your work at that time just sat there in the out basket which was a possibility?

THE WITNESS: Yes.

MR. SEATON: Allen, did you find that letter?

MR. SUSMAN: Yes, I have it.

MR. SEATON: How long does a line producer have -- I understand you were talking about you hired a line producer. I understand they don't get a lot a preparation time. I mean, you don't -- when you hire somebody to take over, let's say this first show, how much preparation time does he have or how soon does go into production after he was hired?

THE WITNESS: It went into production maybe within a week after he was hired, but the point was that the show had

been prepared for production to a certain extent by the studio prior to my return and prior to my hiring him. Actually, the way it works is that once the script is in some kind of a useable fashion, the line producers, outside of casting,doesn't have a hell of a lot to do until after you get into post production because in the production, the unit manager and the directors on the production phases. It is mostly a logistics operation rather than a creative one.

MR. SEATON: But it is also an economic consideration not to have on too long if you are going to hire for one episode, I would say, when you came back?

THE WITNESS: You mean a line producer?

MR. SEATON: I don't mean a line producer in the sense that he works all the way through, but I say that you hired somebody to take over on the first one that was shot on July 3 or something.

THE WITNESS: No, no, the first one that was shot in Emergency, I hired a line producer for the entire year, and he reported maybe a week before that show commenced production.

MR. SEATON: That was what I am getting at, a week before.

THE WITNESS: But the point is that there were various executives at the studio, I would presume, had been preparing this material for production in my absence and also in his so that outside -- he may have been in early enough to cast. I am not sure about that. I think he might have been, but the point was because he was very, very green at it, I went out on location with the director myself to take particular

pictures.

In the case of Chase, of course, the thing was absolutely stale-mated because as you can appreciate, the network and studios did not like the idea of starting on July 31 for September 11. I did not like it either, but they made a commitment to NBC that they would go September 11, and they tried to pressure for an earlier starting date, and I said that you can't get it because there is no material to shoot and I am not going to do a show without material. So, as I said, I made the first script commitment on Chase on the 3rd of July.

MR. SEATON: I have no further questions, but I would like to see that letter, Mr. Chairman, maybe someone else can ask questions if they may.

MR. LAVERY: Mr. Mayes has a question.

MR. MAYES: Your attorney asked you if you crossed the picket line and I understood you to say that you did not cross the picket line.

THE WITNESS: Well, I will have to say that depends on whether it is your construction or mine. Let me say, there were no bodies outside of the gate at any time during the 12 working days that I went in or out of the studios at any time.

MR. MAYES: You didn't mean to indicate that if there had been some bodies, that you would not have crossed?

THE WITNESS: No, I would not say that. It may have been more emotionally difficult for me to have gone in, but the point that I felt the conviction of which the capacity

I was going in, that I had a legitimate right to go in. I don't think it would have deterred me. I didn't make the decision to go in because the picket line had been withdrawn physically.

The reason that I did not cross was probably coincidental in that I normally eat lunch in the studio commissary. If on the day that they had me crossing a picket, I had gone to the Tail of the Cock. I probably would have run into them going out, but normally, I eat in the studio commissary because it is too time consuming to go off the lot because if you eat there every day, you build up an immunity to the food.

MR. SUSMAN: I have no objection of making that letter part of the record.

MR. GOMBERG: Are you still an executive on both of those shows?

THE WITNESS: Yes.

MR. GOMBERG: You created Chase?

THE WITNESS: I created the genisis of Chase whether I got separation of rights is currently being arbitrated by the Guild.

MR. GOMBERG: But you are claiming a credit?

THE WITNESS: Yes, it is an automatic arbitration.

MR. GOMBERG: You said before that when the actors came to you with bad scripts, you couldn't tell them how to fix it or how to fix a bad script because that would be writing, wouldn't it?

THE WITNESS: Not telling them, but I couldn't fix it.

I didn't.

MR. GOMBERG: You couldn't fix it or you couldn't tell them how to fix it because that would be writing a script?

THE WITNESS: Yes.

MR. GOMBERG: When you came back, you said -- just a minute -- you spent a lot of time with Jack Webb because of Chase and you disagreed with the way the show is going?

THE WITNESS: No, I disagreed with the way that the pilot had been made in terms of its viability of the week series. In other words, its expectation that I would merely produce 22-hour versions which he had made as a 90-minute pilot. And I looked at the 90-minute pilot which I had not seen, and, in fact, I said I don't think this thing is going to work and that created a certain amount of hatred and fuming and so forth which got into interminable discussions with NBC, and you know, --

MR. GOMBERG: Now, the result of that was that they went back to your concept?

THE WITNESS: Not entirely. The point is that I merely tried to add some elements to the concept that was existing -- split the difference between my version and his version so to speak.

MR. GOMBERG: You wouldn't call that fixing it, would you?

THE WITNESS: I would call it fixing if anything had been done, but the point was there was nothing done until the 3rd of July. All I said to him for the purposes of my point that I am not going to shoot any of the material that

you've got because it is no damn good. And if they say that your writers are no damn good, you're going to say because I don't think that the concept is viable.

The point is that nothing was done to -- the first episode, the first that was made, the way I said, if I am going to do the series, I was going to do it. It was not made until the 3rd of July which there are contractual records of course, I made them stand off on it because I said if you want to do it that way, get somebody else to do it because I am not going to do it that way.

MR. GOMBERG: You were speaking in creative terms about where you thought that they had done wrong with the show?

THE WITNESS: Yes.

MR. GOMBERG: So you were defending on what had been a concept?

THE WITNESS: Well, let me put it this way. I think it is a more valid answer to say that the concept that they handed to me, the executive to produce, were to take over. After I saw it, I didn't think it was workable and I didn't want to do it that way, and if I couldn't do it my own way, I wasn't going to do it, but this was all subject to the clear and understanding that whichever way it was going to be done, it wasn't going to happen until after the strike was over.

Now, I would say this that if they had convince me which is highly unlikely, the concept that they had was viable and said here are five scripts that were prepared

during the strike, go ahead and produce them. We could have gone into production a month earlier if I had been prepared to do it. The point that I am making is that the question of useability of the material. So, what I am saying, finally I got them all beaten down to the point where they said look here, we don't think that you know what you are talking about, but you made a success out of Emergency, so we got faith in you. Now, when the strike is over, when are you going to get started? I said when the strike is over. I said that I can't get my original material, so you will just have to wait.

MR. GOMBERG: My point is that when you are talking to somebody who is taking a concept that you have had, that you wrote, that you created, or you talked about or told and sold and you come back and you see that it is done and you find out that you are dissatisfied with it because it was not done the way that you wanted --

THE WITNESS: No, no, that is a misinterpretation. The way in which it was done did not seem to me to be workable. You could say, as I have been accused by the studios, yes, of being on an ego trip of trying to duplicate my original idea. That is beside the point. I looked at the show and I said I just don't think this is workable in its form because there is no substance to it. It is mechanical; it is tricky. I want to give the show more substance if I am going to do it at all. I said it because it was going back to my original direction. My original directions were also a product of the same thinking, but it wasn't the fact of saying I resent the

fact that you made it different from what I wanted to do. As a matter of fact, the funny part about it was that I didn't want anybody to sell the pilot. I like it, but what was more important, which I will put on that question, is within a few days of my coming back, I went to a meeting at NBC with Stan Robertson who was the director of some program or other and he showed me NBC resource reports in which the audience was gassed by the action and they hated the cast.

Well, it happens to be my conception that it is apparently suicidal to do an epic static T.V. series in which the audience's reaction of the cast run from apathetic to hatred. So, I don't think that you can get people just by running a helicopter, so that is what I was really telling them to do.

MR. GOMBERG: And what came out of this, you say, was a combination of what you started with and something they had and the new concept which is a kind of blending of both?

THE WITNESS: The total degree is, but it would be very subjective interpretation as to how much is what.

MR. GOMBERG: Yes, but we are talking about structure here.

THE WITNESS: Yes.

MR. GOMBERG: What I am trying to get clear -- I don't want to get involved in semantics, all of us have sold stories standing on our feet or sold concepts standing on our feet because we can do that. We are writers. We don't have to sit down when the script agent comes out with a structure of

a script. We can fix a script by standing up and saying that this scene needs eliminating and this scene needs to be changed as to his character, and then we can make the people see as opposed --

THE WITNESS: You do that when you cut pictures too.

MR. GOMBERG: That is what I was just wondering because it seems to me that a structure or restructuring don't -- I don't think that could be done without creative input.

THE WITNESS: Well, I disagree with you in this respect. I didn't do the restructuring as much as the site that the present structuring is not viable. It is going to have to be restructured to work right. Now, with the backlog of material that they had, they could have gone into production a month earlier than we did if they had gone with the concept that those earlier scripts were written. So rather than hencing the date that they wanted to present the show, I was inhibiting it because their argument to me was grant it if you like, it doesn't solve the problem. How in the hell do we get the thing made. I said that is not my problem. That is your problem. My problem is to tell you that it is not right the way it is and if you want to do it, it has to be done another way.

MR. GOMBERG: And you told them the way that it should be done?

THE WITNESS: It is what I am doing.

MR. GOMBERG: No, you said that they agreed to it.

THE WITNESS: Yes, but you say to somebody, for example, talking again about -- let's say a bowl of eggs and encountered

in front of the enemy, you look at a piece of material and you say that it needs more depth of characterization, I don't think that gives them a lot of insight, especially at Universal.

You say to them that the start of the show should be a guy instead of a helicopter, that is not really saying that I have solved your problem. That is merely telling them that that is the way that you are going to solve your problem when you get around to doing it.

MR. LAVERY: Mr. Seaton has his hand up.

MR. SEATON: I am curious, Mr. Cinader, about one thing. You said that you wrote this letter?

THE WITNESS: I drafted the first draft of which went to several layers of lawyers after that.

MR. SEATON: Then it seems to me that the first two paragraphs are very clear.

Why did you feel it was necessary for your lawyers felt that is was necessary or you felt that you were not violating anything as being executive producer -- why does the third paragraph say where the studios hold themselves responsible for any penalties that the Writers Guild my bring?

THE WITNESS: It is quite obvious that regardless of what I think the situation is or what you may think the situation is, and if I hadn't put that in, I would have to be paying these high-priced fellows to sit here.

I can't deny your right to institute disciplinary proceedings, but if the studios were going to put me in a

jeopardy position, -- I might say on that point, I felt as many other hyphenates did when the strike started that rule 30 was unintenable, but the point is that if you hadn't withdrawn rule 30, I would be sitting right there starving to death waiting for the Supreme Court to tell me seven years from now that I have no right to tell writers that they couldn't work for me.

The fact that it isn't tenable, doesn't mean that you are not going to think so. After all, the Chairman just told me that there was a picket line there that I couldn't see.

MR. LAVERY: Mr. Susman, did you want to mark this as an exhibit?

MR. SUSMAN: We will offer it as an exhibit, that is the letter that he referred to that he wanted to sign before he came back to work.

MR. LAVERY: I just want --

MR. HOLTZMAN: Mr. Chairman, may I ask the Chair's indulgence, this is apparently the only copy. Could we have copies made of this and then have it marked?

MR. LAVERY: We will take an adjournment for a few minutes.

(Recess.)

MR. LAVERY: I think it has already been received in evidence.

MR. SUSMAN: Mark that Respondent's Exhibit A.

(Whereupon the letter dated June 6, 1973 from Universal Studios, Inc., addressed to

Mr. Robert A. Cinader was marked
Respondent's Exhibit A for Identification
and is attached hereto.)

THE WITNESS: I just want to make one point of this letter in response to what counsel said about something.

At the time that I made the deal with the studios in change of status, it is customarily in dealing with them as far as this letter is concerned, I told them specifically that I would not even consider it until the letter was executed. So it went from me to Mr. Shane and Mr. Shear -- Mr. Shear is Jack Webb's attorney and he is an officer of the Mark VII, Limited and, Mr. Shane, I suppose has some signing power for Universal and they debated back and forth. What happened, it was all done in the course of one day. I said if you want me to come in, tell my secretary to be on the corner of Lankershim Boulevard and hand it to me, of course, that was a little melodramatics.

What happened is that after they retyped it, they made a typographical error which threw them into a great mass of confusion. She called me about 6:00 o'clock at night. I said is the letter executed, and she said yes, and I said read me the text of it. She said okay and she read it to me over the telephone, and I said now xerox it and put it into the mail to my attorney and call me back when you put into the mail. And she said that she had taken it over to the post office and at that point, I said tell them that I will be in tomorrow morning, feeling that if it was in the mail, it was as good as being in my own personal

possession.

They were quite upset with the fact that I wouldn't take their verbal commitment on this like I did on the deal itself.

MR. LAVERY: We have just been advised that there is a board meeting coming up shortly in this room. So I guess that we are ready for closing arguments.

MR. ORMAN: Thank you, Mr. Chairman.

I think that it is a fair statement that the Guild's case has been proven by the very testimony of Mr. Cinader. First of all with respect to crossing a picket line. I have heard some comments about opposing counsel stating that you have to have two pickets for something to constitute a legal picket line. This may be so, but I have never heard of this before, but I never -- an illegal picket line, but assuming this, for sake of argument, this is in reference to a different situation as has been brought out before.

This is for purposes of finding whether there has been picketing going on. This trial committee is not limited nor does it have to go by what is lawful or not lawful or necessary for other situations. It merely has to do with their limitations of Guild's rules and regulations and what is understanding of Guild's rules and regulations, and it is quite clear that the Guild was on strike at Universal. It is quite clear that there were picket lines at various gates at Universal. It was clear that Mr. Cinader knew this. It was quite clear that Mr. Cinader knew that he was crossing in legal effect the Guild's picket lines.

Now, as regard for two, which I think in regards, Mr. Cinader's violation of Section 13 in which the charges which he received stated that he is charged with having during the month of June, 1973, rendered services for Universal Studios, Inc., in general. He's admitted that he has done this. These charges did not state that you have "rendered services as a writer". It is not limited to that for the simple reason it can't be limited to what is a "writer" because what is a definition of a writer. Opposing counsel on many occasions stated that Mr. Cinader had not written and, therefore, this Guild has no jurisdiction over him and then he proceeded to define writing according to the Minimum Basic Agreement.

Well, the Minimum Basic Agreement is a document which has been entered into to see what the producers are going to pay something. This is its purpose. It is a economic document. It has been drawn up pursuant to the very strength of producers and the Writers Guild and because of the producers having been enabled through economic strength to state we have not paid people for doing this thing. This will not be called writing service and they will, therefore, not be paid for this. This has nothing to do for the probable issues before this trial committee. What is a writer is not black and white and there is a large element of gray in it and this Guild has stated that when you crossed the picket line and you do certain quote perform services, you are violating Guild's rules and regulations, and there is a logical reason for this.

Mr. Cinader has testified that he may not have put words down on paper in a formal script, but certainly, he's consulted with his script girl about technical definitions that had to be changed. Certainly, he has gone out and decided that he cannot use this scene or that scene because it is not economically feasible or practically feasible. He has made mental determinations that I cannot use this script and use that script. You cannot read a script and determine that I am going to use it in the future or call in a writer in the future and not be writing functions, creative functions. This is a line that cannot be distinctly black and white and this is the reason the Guild's rules and regulations have been drawn up in the way that they have been drawn up. They have been drawn up to state that you cannot perform services because in the very nature that you have coming under the egis of writing services because in the larger sense in which this trial committee and Guild are concerned with.

Mr. Cinader's own testimony said that. Mr. Cinader's own testimony said that you cannot distinguish in your own mind. Mr. Cinader's own testimony has been that I performed services in June at Universal. This is a violation of the strike rules that he has been charged with the strike rules 1, 12 and 13 by his own testimony and, therefore, I think that the trial committee should find that he has violated these rules.

MR. LAVERY: Mr. Holtzman.

MR. HOLTZMAN: Mr. Chairman, I am compelled to point

out, but it is probably already obvious to everybody here in this room that the argument that Mr. Orman has made on behalf of the Guild, in order to defend the charges against Mr. Cinader and in order to defend the case which has been presented this afternoon, transcends every legitimate bond of reason or logic.

Having made that broad statement, let me at least try to indicate what I have in mind. The Guild's case, as I understand it, rests upon two charges. Each charge representing in terms of a single proposition. Let's try to focus on the real issue of the matter and their foundation one by one.

First, Mr. Cinader is charged with having crossed the Guild's picket lines at Universal Studios, Inc., during the month of June, 1973. Okay, if we take the normal accepted practical every day understanding of what is a picket line, one or more people carrying signs and moving across a particular entrance or entrances. It is immediately evident that the charge hasn't been proved. There was no picket line maintained at entrance at Universal Studios during the month of June, 1973. It just wasn't there. There weren't two men carrying a sign across that entrance. There wasn't one. There wasn't any. Now, let me go on a tangent for just a moment. Picketing has a background. It is information. A man walks across an entrance carrying a sign so that the customers, the world in general, and the business know that there is a strike on and the picket line has been established so they can decide whether or not to

proceed in accordance with the information being given to them. They weren't there. There wasn't simply anybody carrying a sign for informational purposes or for any other purposes of crossing the line, okay. In order to get around with what would seem in accordance with the normal use of the English language an unescapable conclusion, Mr. Orman would have this committee believe that even where there is not one single picket present, where there hasn't been a picket present for at least three weeks except for perhaps -- we can dispute on this -- for one or more instances of mass picketing during the lunch hour. Mr. Orman would have us to believe that there was, nevertheless, a picket present in order to support the charges.

I am not resting this argument on any doctrine of the National Labor Relations Act, but although that we can't ignore the Board's decision in that regard. I am not resting it on the advise that Mr. Schweitzer said that counsel has given it to the Guild that there must be two pickets present in order to constitute a picket line. Incidentally, there is an inference from the argument that has been made that it was from some counsel here present today who said that two pickets constituted a picket line, no less.

It was the Guild's strike captain testifying to the advise to which had been given to him by the Guild's counsel who said that in order to have a legal picket line, there must be at least two pickets present, but I am not resting on that, but I am simply resting on the basic premise

that somebody reading the Guild's rules must construe those rules in accordance with the ordinary useage of the words contained in the rules and whether the rules talk in terms of a picket line, maintained by the Guild, I submit there must be a picket there. After this, there is no picket line.

My point, Mr. Chairman, is that the first charge necessarily and inescapably rests on the premise that a picket line does not require the presence of a picket and I say, Mr. Chairman, that premise is absolutely unsound, totally devoid of logic and that the committee cannot possibly predicate a finding of guilt upon it.

The second charge obviously requires somewhat more of a sophisticated analysis. The charge basically is that Mr. Cinader rendered services for Universal City Studios, Inc., a company for against whom the Guild was at such time on strike, during the month of June, 1973, and the record is quite clear that commencing June 7, 1973, Mr. Cinader reported to work with the clear expressed written understanding that he would not and could not perform writing services and that thereafter until the end of the strike, a period of 12 days he performed those services which are commonly performed by a person in the capacity of an executive producer.

He hired, as you remember he said, he hired a line producer, caused others to hire actors and actresses. He, indeed, supervised that person in whom the law designates as supervisors and executives. He resolved disputes among employees and between employees and management. Do you recall

the dispute of the unacceptable cameraman. He conferred with higher ranking executives. He conferred from the executive level with the National Broadcasting Company. There was some suggestions that he may have considered the appropriateness of some locations for shooting, although I don't understand that to be the record. I understand this is something which a producer does and I don't think there is any indication that was done during this three-week period and in the course he viewed the pilot; he considered and rejected the scripts.

If anything is emphatically clear in this record, it is that no writing was done by this man at any time during the period under contemplation, the 12-day period of contemplation. So how does counsel get around this? He says, we can reject the definition of writing in the Minimum Basic Agreement. Incidentally, he was trying to put some words into my mouth. He said that I said that we must accept that definition. I said nothing of the kind, but what I do say is this: that is a pretty good definition. It is the accepted definition of the industry at that point, but we need not rely upon it because I think that we can rely upon the ordinary, customary English construction of the word writing. Mr. Cinader has done nothing which comes in that definition, no matter how broad it has been stated.

Now, if I can accept, understand counsel's premise, he is trying to tell us that any creative step in the creation of an entertainer's vehicle should be considered by this committee to be writing. The function of a producer, in the broadest possible sense: the function of a director,

in the broadest possible sense. Everybody from the script secretary to persons who go out and select the locations for shooting if counsel's definition is to be accepted is part of the writing process and if this is so, I suppose that every member of every guild, even every member of the Extras Guild to the extent that they are participants in the creative process; they must be a writer. Now, Mr. Chairman, you know that this is absurd. You know it is absurd and I know it is absurd and counsel knows that it is absurd. The very division of this industry into various crafts and guilds, if that division has any meaning at all, it must be regarded as part of the body of information that is brought before this committee in its deliberations. The industry traditionally perpetually has distinguished very logically and very functionally between a producer and a director, an actor and writer, and a member of one of the crafts while the line may blurr on occasion, the basic concepts are and have been clear.

Now, Mr. Cinader has bent over backwards. He has deliberately shied away during the 12-day period that we are concerned with. From any aspect of the producer's functions which might reasonably come close to the writer's function, he made that very clear in his testimony. The division is very clear. The scripts were set aside. He wouldn't even talk about it and the record thus becomes emphatically clear that unless the concept of writing is distorted wholly beyond reason, this man wasn't writing and it follows, necessarily, that if he was not writing, that he

has performed no function; he has done no act engaged in conduct for which this committee may lawfully or indeed logically impose its discipline.

Now, just a couple of additional comments. We have a lot of people come before this committee as to whom charges were performed where there is at least some basis for the establishment of an antagonistic position as between the individual and the Guild. Mr. Cinader is no such person. Mr. Cinader, I think, more than persons who I know of that have been subjected to charges have been a loyal, devoted, concerned member of the Guild, and I think that the committee should take that under consideration in its deliberations. The testimony, uncontradicted from the picket captain is that he spent at least a hundred hours on the picket line. He performed every picket assignment that was given to him. Indeed, only on one occasion when he couldn't make it, he got permission to pass up the assignment and made it up later. That is the type of loyalty that is indeed rare in our temporary society. He served on committees with the highest executive members of the Guild, one of its strike committees. He has demonstrated loyalty, and I think, a compassion toward the Guild's objectives which is upheld in our experience throughout these proceedings and I think that it should not only be taken into account, but I think it must be taken into account.

Mr. Chairman, I respectfully request that the committee take into consideration each and all of the grounds of motions that we have submitted in connection with these

proceedings and I urge the committee on the basis of the record of the arguments that we have made, that these charges should be dismissed and I think the committee should find accordingly.

MR. LAVERY: The Chairman has to say something here quickly, not merely because of the time feature.

Mr. Seaton some time back asked if he could ask Mr. Holtzman one more question before he finished and I said of course, but we -- mostly because of the time situation, I don't dare to start all over again on a wonderful exchange of opinions. It is the time pressure. Mr. Holtzman hasn't really finished. Mr. Seaton would like to ask him a question or two and I think that will be about it.

MR. ORMAN: Mr. Chairman, I would like to insist about two minutes. I think I am entitled to it.

MR. LAVERY: You may, but I am saying that I will never get finished.

THE WITNESS: I have one or two brief comments.

MR. LAVERY: I am saying that we will never get finished.

THE WITNESS: I will be very brief. First of all, with respect to the actuality of this situation, I can say with an absolutely clear conscious that there is nothing that I did during the 12 days that I was there that enhanced the studios function with respect to my operation. If anything because of the fact that I threw a monkey wrench into their format, I inhibited them and caused them a great amount of money. The second point that I want to get to is my creativity this I feel very strongly about, as a matter of conviction,

is that if you are going to say that saying something is as bad as creativity, the guys in the screening room -- the projection room instead of members of the Writers Guild -- the point is that the Guild's own definition of function as it is handled in the Credits Manual is not for me to tell you that it is bad, and it is not for me to tell you how to fix it. It is the fixing of it that is the writing service. It is the fixing of it that is the writing service and which is why it is that no producer in town can get a legitimate arbitration because he doesn't do the fixing. He merely directs the fixing. So the thing that it doesn't work and it needs to be fixed is not doing it. It is the fixing it that counts. It is the only thing that matters because if it isn't fixed, it can't be shot.

MR. LAVERY: Your turn, George.

MR. SEATON: Mr. Holtzman hasn't finished.

MR. HOLTZMAN: I don't have anything further, Mr. Chairman.

MR. SEATON: I just want to make one statement. I quite agree with you, having been on the set for many, many years, everybody is a writer -- the photographer, the costume man -- everybody is a writer. They will have to join this Guild eventually.

Regarding your definition of the picket line, at Universal there are about seven ways to get into that studio and I know for a fact that some people went through the south gate. They couldn't -- they new that they were violating the picket line because the pickets were up on Lankershim, but they came in the back door, side door. They opened up --

they went through the tour gate and so I don't think -- my feeling is, it is not quite that -- we don't have quite enough members to picket all of those gates.

MR. HOLTZMAN: Mr. Seaton, let me just point this out to you. We have two separate charges here, entering the premises of a struck employer for a particular purpose and crossing picket lines.

MR. LAVERY: Were you referring to pickets? I don't mean to open this up.

MR. HOLTZMAN: The person who came through the tour gate may have entered the premises of a struck employer, but that is something different. I don't think that he crossed the picket lines.

MR. LAVERY: Well, we will take that into consideration. I am sure that we owe Mr. Orman a minute and a half.

Mr. Orman, a minute and a half.

MR. ORMAN: Yes. Mr. Holtzman and I finally agree on one thing and that is the Trial Committee must use its common sense with reference to this picketing. Mr. Holtzman's argument is that when the Guild changed from regular picketing to sporadic picketing, it was abolishing Rule 12 which is don't go past the picket line. Well, of course, the Guild was never abolishing Rule 12. It never meant that, and it is obviously the common sense meaning of that is if there are no pickets brought out, that the Guild did not have the manpower to do it on a regular basis.

And just because it changed from everyday picketing to sporadic picketing, you were not abolishing

Rule 12, besides common sense, there is no intention of this, and Mr. Cinader knew that they were picketing and Mr. Cinader's testimony just now what is writing and what is creativity, the main -- this Minimum Basic Agreement gives primary rights to the person who creates an idea, who comes up with a concept for a series, that is the man who gets most of the money. He has the ownership rights in that series. That is what a writer is. He may never put a word on a piece of paper. If he comes up with this concept for a series or if he is the owner of this series, it belongs to him. In Mr. Cinader's own testimony, he said that he spent 30 percent of his time arguing with Jack Webb about the concept of this series Chase which has been changed. He was getting at Mr. Webb to come back with the original concept, to come back to the original idea of what the series supposed to be all about. This is writing and if there is nothing else, this is writing because if that is not writing, then this whole Minimum Basic Agreement is all wrong. Thank you.

MR. LAVERY: I am sorry. We have to be out of here, but aside from that, the Chairman has to make a closing short statement.

This matter will be taken under submission by the Trial Committee. After the Committee has deliberated, it will submit its written recommendation as to guilt or innocence along with its recommendation for disciplinary action, if any, to the Board of Directors who under the Guild's Constitution and By-Laws has the authority to either accept, reject or modify the Committee's recommendation.

In order for the Committee to make a recommendation of guilt, it will require a vote of no less than four members. If more than one member votes for acquital, it will be the recommendation of this Committee that the Respondent be acquitted of the charges.

There being nothing further, this hearing is adjourned.

(Whereupon the hearing adjourned at 5:05 P.M.)

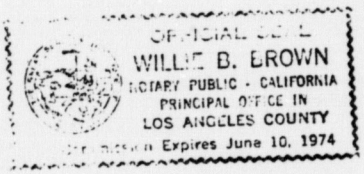
STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

I, WILLIE B. BROWN, Notary Public for the State of California, certify:

THAT the foregoing transcript of proceedings was taken before me at the time and place therein set forth and recorded by me stenographically; thereafter, my notes were transcribed into typewriting under my supervision.

In witness whereof, I have subscribed my name and affixed my seal this 19 day of October, 1973.

Willie B. Brown
Notary Public in and for the
State of California



ORIGINAL

INTRAUNION DISCIPLINARY HEARING

7:16 c

In the Matter of

WRITERS GUILD OF AMERICA, WEST, INC.,

Petitioner,

vs.

JEROME BRESDOUN,

Respondent.

No._____.

TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

May 24, 1973

ONLY COPY AVAILABLE

Reported by:

Carol J. Gertz, CSR

COLEMAN, HAAS, MARTIN & SCHWAB
1830 WEST 8TH STREET • SUITE 201
LOS ANGELES, CALIFORNIA 90057
DU 1-3701

INTRAUNION DISCIPLINARY HEARING

In the Matter of)
)
WRITERS GUILD OF AMERICA, WEST, INC.,)
)
Petitioner,)
)
vs.)
)
JEROME BRESDOW,)
)
Respondent.)
)

TRANSCRIPT OF PROCEEDINGS taken on behalf of petitioner at 8955 Beverly Boulevard, Los Angeles, California, commencing at 2:30 P.M., Thursday, May 24, 1973, before Carol J. Gertz, CSR - Notary Public.

TRIAL COMMITTEE:

CHRISTOPHER KNOPF, Chairman

JAMES POE

NATE MONASTER

MICHAEL BLANKFORT

ERNEST LAVERY

APPEARANCES:

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I N D E X

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LOS ANGELES, CALIFORNIA, THURSDAY, May 24, 1973

2:30 P.M.

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MR. KNOPF: This is a disciplinary hearing in the matter of Writers Guild of America, West, Inc., versus Jerome Bredouw. This matter is being heard before a Trial Committee duly convened pursuant to Article X of the Constitution and By-Laws of the Writers Guild of America, West, Inc.

The members of the Trial Committee are James Poe, Nate Monaster, Michael Blankfort, Emmet Lavery, and Christopher Knopf, Chairman.

Will the parties please state their appearances for the record.

MR. MENDONSA: John A. Mendonsa on behalf of the Executive Director of the Writers Guild of America, West, Inc.

MR. HOLTZMAN: For the respondent, Robert A. Holtzman and Saul N. Rittenberg of Loeb and Loeb, and also Allen E. Susman of Rosenfeld, Meyer & Susman.

MR. KNOPF: Thank you. Any other appearances to be made?

MR. HOLTZMAN: None.

MR. SUSMAN: None.

MR. KNOPF: These are closed hearings. Anyone not specifically connected with the hearings will be asked to leave.

With your permission, Mr. Holtzman, I will

introduce Trial Committee exhibits.

MR. HOLTZMAN: No objection.

MR. KNOPF: I have a copy of the charges and a cover letter sent by certified mail to respondent on April 9, 1973, with a signed return receipt attached. I have marked these as Trial Committee Exhibit 1.

Is there any objection to the receipt in evidence of Trial Committee Exhibit 1?

MR. HOLTZMAN: No objection.

MR. MENDONSA: No objection.

MR. KNOPF: They will be received.

I have marked as Trial Committee Exhibit 2 a two-page letter requesting continuance of the hearing dated April 23, 1973, addressed to John Mendonsa and signed by David Miller of Loeb and Loeb.

I have marked as Trial Committee Exhibit 3 a one-page letter requesting a continuance of hearing dated April 25, 1973, addressed to John Mendonsa and signed by David Miller of Loeb and Loeb.

I have also marked as Trial Committee Exhibit No. 4 a two-page letter granting a continuance to May 24, 1973, dated April 27, 1973, addressed to David Miller and signed by John Mendonsa, Resident Counsel, Writers Guild of America.

Is there any objection to the receipt into evidence of Trial Committee Exhibits 2, 3, and 4?

MR. HOLTZMAN: No objection.

MR. MENDONSA: No objection.

MR. KNOPF: Mr. Holtzman?

MR. HOLTZMAN: At this time, Mr. Chairman, I would like to place before the Committee certain objections and make certain motions relating to the charges and other matters affecting the composition of the Committee and affecting the composition of the Committee and affecting the proceedings.

In the interest of time and because these same matters have been adverted to in a series of hearings, I see no reason why I should presume upon the time of the Committee or the counsel to state each motion, the ground therefor, and the argument in support thereof at length. By abbreviating these matters, however, I do not mean to give any lesser effect to any motion or to give lesser effect to any objection.

With the consent of counsel and of the Committee, I will simply state the motions by number and by substance. In so doing, I would propose to incorporate into the record in this proceeding each of the grounds for motion previously stated in the proceedings involving Mr. Victor, Mr. Ruddy, Mr. Saunders, and the others who have been tried before this Committee. And, of course, we would also incorporate the arguments in support of each of the motions. Similarly, we would expect to incorporate into the record the grounds stated in opposition and the arguments stated in opposition where applicable. If counsel and the Committee are so willing, these matters may be incorporated into the record, and we can proceed simply to state the motions or objections, as the case may be.

MR. MENDONSA: I will not object to the motion to incorporate. I think, though, the record should be clear that we are incorporating the David Victor, Albert Ruddy, Michael Crichton, Herman Saunders, and Frank Paris matters.

MR. HOLTZMAN: That will be satisfactory.

May this be the order, Mr. Chairman?

MR. KNOPF: Yes, of course it is.

MR. HOLTZMAN: We will state our motions and objections.

Our first motion, Ground No. 1, is to require the Guild and its Executive Director to present the charge in the form and in the substance required by the Constitution and By-Laws of the Guild and in the form and substance required by the Labor-Management Reporting and Disclosure Act, in particular Section 411A5 thereof.

As Motion 1-A, we move the Committee to dismiss the charge against Mr. Bredouw on the ground that it is vague, uncertain, and ambiguous, and thus fails to comply with the requirements of the Constitution and By-Laws, in particular Article X-B1 thereof and, again, Section 411 of the Labor-Management Reporting and Disclosure Act. In this regard we point out specifically that the charges are vague, uncertain, and ambiguous in that they relate to conduct which allegedly took place on or about March 16, 1973, and thereafter, being otherwise totally unlimited in time, perhaps extending even to the present day and beyond, and on the further ground that by using the phrase, quote, "for the purpose of rendering services for Universal City Studios, Inc.," end quote, we have been given no indication whatsoever of the nature of the

services for this employer sought to be charged.

As Ground No. 2, we move to dismiss the proceeding on the ground that the Guild is seeking to impose discipline on a non-current or an associate member with respect to matters as to which he had no right to vote and no opportunity to participate in the decision-making process.

As ground of Motion No. 3, we move to clarify the ambiguity in the charge which arises out of the inconsistency between the apparent position of the Guild in this matter that services for a struck employer of any character are condemned, whereby simultaneously the Guild is publicly taking the position that only services of a writing character are condemned.

As ground of Motion No. 4, we move to dismiss or stay these proceedings in that it appears from the appearances on record that the charges are not being presented in the manner required by Article X, Subsection B-6 of the Constitution and By-Laws in that they are being presented by resident counsel and not by the Executive Director, thus violating the right of confrontation expressly provided for in the Constitution and By-Laws.

As ground No. 5, we move to dismiss the proceedings on the ground that the Guild has no authority or jurisdiction to impose discipline or to seek to impose discipline or to threaten to impose discipline on any person, any member, when acting in the capacity of an executive supervisor or management representative.

As Ground No. 6, we move to dismiss the proceedings or, in the alternative, to continue the proceedings on the ground that the jurisdiction of the National Labor Relations Board has been invaded and that the matter should proceed either not at all or only at such time as the Board has considered and determined the same matters now being presented to it.

As ground of Motion No. 7, we move to dismiss the proceedings on the ground that the Guild has no jurisdiction to discipline or to seek to discipline any person acting in a field of endeavor outside the scope of the Guild's certification as exclusive bargaining agent. Mr. Bredouw is a publicist acting as such, a member of the Publicists Guild performing services as a publicist, and, therefore, the Guild has no authority or jurisdiction to interfere with his employment or the performance of his duties as such.

As Ground No. 7, we move to dismiss the proceedings on the ground that the Committee which has been constituted to hear the same has been comprised of persons who are and who have been in the highest councils of the Guild, who therefore have a necessary interest in the outcome of the strike, who are unquestionably cognizant of the relationship of these disciplinary proceedings to the strike, and who therefore could not reasonably be expected to deal in a disinterested manner under the existing circumstances. And in this regard we particularly point out that the committee has not been constituted as required by Article X-D, Section 4 of the Constitution and By-Laws of

the Guild.

MR. MENDONSA: That motion I believe referred to as 7 is Motion 8, I believe.

MR. HOLTZMAN: I beg your pardon. I may have misspoken. This is Motion No. 8. It reminds me of a very old story I will not go into now.

As Motion No. 9, we move to dismiss the proceedings or, in the alternative, to continue them on the ground that a Committee or tribunal composed of members of the Writers Guild of America, West, Inc., could not, during the pendency of the present strike, fairly and impartially adjudicate the matters which are now presented for decision.

As Motion No. 10 -- Motion No. 10 is not relevant to this case, and, therefore, there will be no motion of that number.

As Motion No. 11, we move to dismiss or, in the alternative, to continue the matter to a date beyond the present strike on the ground that the existence of publicity and the existence of an emotionally charged atmosphere necessarily permeating these proceedings makes it prejudicial to the substantive and procedural rights of the respondent to proceed at this time.

We make these motions, each and all, on the grounds which have been stated in these proceedings to which counsel and I adverted. We feel that each of them severally provides a necessary basis for the dismissal or continuing of this matter and that the motions taken either separately or

together lead to the inevitable conclusion that if the respondent proceeds he will be deprived of equal protection of law, the rights guaranteed under the Constitution and by-Laws of the Guild and the National Labor Relations Act and the National Labor-Management Reporting and Disclosure Act.

This summary statement, again, gentlemen, I urge you, should not be taken to mean we are merely making a record in these matters. We make these motions sincerely and with complete conviction in their propriety.

MR. KNOPF: Mr. Mendonsa?

MR. MENDONSA: The Guild will stand on the arguments in opposition to the motions made in previous matters which have been stated on the record.

MR. KNOPF: It has been our custom to recess to consider these motions. We have considered Motions 1 through 11 -- is it?

MR. HOLTZMAN: With the omission of 10.

MR. KNOPF: -- in the matters relating to other cases. And you have introduced no new matters. Our response is the same.

I would ask for opening statements. Mr. Mendonsa?

MR. MENDONSA: Very briefly, Mr. Chairman, we will show that on or about March 16, 1973, the Respondent Jerome Bredouw crossed a Guild picket line established at Universal City Studios, that he crossed the line for the purposes of rendering services to Universal City Studios, which company was being struck by the Guild at that time. And if I may

see if I can locate my witness in the hallway and have a few moments. I anticipate we would be a little longer in finishing up than the last case. So if we may recess, I will see if I can find him, if I may.

MR. KNOPF. Off the record.

(Brief recess.)

MR. KNOPF: Back on the record.

MR. MENDONSA: We will call as our first witness Don Sanford.

DONALD S. SANFORD,

called as a witness, was examined and testified as follows:

EXAMINATION

BY MR. MENDONSA:

Q State and spell your name, please.

A. Donald S. Sanford, S-a-n-f-o-r-d.

Q. Mr. Sanford, are you a member of Writers Guild of America, West, Inc.?

A. Yes.

Q And how long have you been a member of the Guild?

A. Since 1953.

Q. And during the current strike which has been in existence since March 6, 1973, have you served on the Strike Services Committee?

A. Yes.

Q. And how long have you served on that committee?

A. Ever since the strike began.

Q. And can you give us a brief description of your duties on that committee?

A. Well, the job is to man the telephones down there, to keep the picket lines intact, check with members about their assigned picket duty, answer questions with members that call in to inquire about their status and so forth.

Q. Now, directing your attention to March 17 of 1973, did you have occasion to have a telephone conversation with a member by the name of Jerome Bredouw?

A. Yes.

Q. And dilyou call Mr. Bredouw, or did he call you?

A. He phoned strike headquarters.

Q. Did he identify himself?

A. Yes, he did. I just happened to get the call. It came in on the extension I was working on.

Q. But he did identify himself to you as Jerome Bredouw?

A. Yes.

MR. POE: When was this, Mr. Mendonsa?

MR. MENDONSA: This was March 16.

Q. Now, will you tell us what you said to Mr. Bredouw and what Mr. Bredouw said to you in that telephone conversation?

A. Mr. Bredouw called in to inquire about his status. He apparently received a notification from the Guild, the notification that all the members got about their obligation to check with strike services headquarters

committee about picket duty. He called in to inquire about his status, and he told me that he was employed by Universal in, I believe it was, their publicity department and was a contract employee and also a member of the Guild. If I recall correctly, he said he was a member of the Writers Guild East but he was a member of the Writers Guild, stated that he had only written a couple of scripts and that he had a dilemma inasmuch as he had a contract with Universal and that was how he made his living. And he inquired about what our rules were about crossing the picket lines in view of his status. And I told him about what I knew. My instructions were that -- were that if he, being a member of the Writers Guild, prohibited him by our strike rules from crossing our picket lines. And I warned him about the danger of that. And he responded that he had this dilemma. This is how he made his living, and he couldn't very well quit his job and honor our strike rules. So we left it at that. I told him I would write a report on it, and I would see what happens. I would say as a person the conversation was very friendly. We both recognized each side had a problem. He did volunteer, by the way, anywhere we wished him to picket except at Universal. He thought that might be a little embarrassing to him.

Q Did he state to you that he was working at the present time, at the time he was making the call?

A Yes.

MR. MENDONSA: I have no further questions.

MR. HOLTZMAN: Just one or two questions, if I may.

EXAMINATION

BY MR. HOLTZMAN:

Q. Mr. Sanford, referring to this telephone conversation that you have just now told us about, I believe you told us that as part of the conversation you warned Mr. Bredouw about the dangers of crossing the picket line. Would you focus on that part of the conversation, if you please, and tell us what you said to him in that regard.

A. Well, I don't recall, you know, precisely what I said, because I must have been making a hundred phone calls a day and ever since this time until we pulled our pickets awhile ago.

Q. Do you recall the substance of the warning you gave him?

A. The substance was I tried to point out what the strike rules were, which we had in front of us and which had been circulated to the Guild, the whole membership, and the fact that a member could be found in bad standing if he crossed the picket line.

Q. Did you read him any particular strike rules?

A. No, I didn't.

Q. Did you advise him, for example, that if he were found in violation of the strike rules that members of the Guild would not thereafter work for him?

A. I may have, I may have.

Q. Do you recall anything else that you said?

A. Not that I can recall. As I say, we had so many of these conversations that to pinpoint one of them -- I wrote

log on it immediately after the conversation was finished, which log is in the record now.

Q Now, you testified that in the course of that conversation Mr. Bredouw volunteered to perform picket duties elsewhere than at Universal Studios?

A Yes. Yes, he was quite willing.

Q Did you respond to that?

A Yes. If I recall correctly, he was assigned to picket duties somewhere else, but I don't recall where now.

Q Do you know if he performed picket duties as assigned?

A I believe he did. It would be in the record if he did. We have to keep records of that.

Q Have you told us the entire substance of that conversation?

A As I recall it, yes.

Q And is that the only conversation you had with Mr. Bredouw?

A Yes.

MR. SUSMAN: You referred to the log being in the record now. It's not in the record before this Trial Committee. If there is such a log, I think we should have the opportunity to take a look at it.

Do you have it, Mr. Mendonsa?

MR. MENDONSA: I am not quite sure. If I can find out what the witness was referring to.

THE WITNESS: The report that I wrote.

MR. POE: Was it a small blue card?

THE WITNESS: No.

MR. MENDONSA: I think the witness is referring to a report that was made up as a result of the telephone conversation.

Am I correct?

THE WITNESS: Yes.

MR. MENDONSA: I don't know that it has to be part of the record. I am going to allow counsel for the respondent to look at the document. And if counsel wishes to offer it into evidence, he may do so.

MR. SUSMAN: Thank you.

MR. HOLTZMAN: May we have a moment, Mr. Chairman?

MR. KNOPF: Yes. We are recessed.

(Brief recess.)

MR. MENDONSA: May the record reflect that the report that the witness was referring to was supplied to respondent's counsel for inspection.

MR. HOLTZMAN: We thank you, Counsel, very much.

We have examined the document. I would like to ask Mr. Sanford just one question pertaining to the document, if I may.

Counsel, could it be placed before the witness.

MR. MENDONSA: Yes.

Q BY MR. HOLTZMAN: Mr. Sanford, would you kindly read the document you have before you to yourself. And I would appreciate it if you would pay particular attention to the portion that is typed in the form.

A. Typed underneath the form?

Q. Well, there is a paragraph typed in the form.

A. Oh, yes, I see.

Q. Just read it to yourself, please.

A. (Witness examining document.)

Q. Have you read it?

A. Yes, sir.

Q. Now, is this language which was prepared or dictated by you at or about the time of the event described?

A. I wrote this immediately after the telephone conversation.

Q. Now, does reading this refresh your recollection as to the words that Mr. Bredouw used in describing the job position that he had at Universal City Studios?

A. As I understood it, yes.

Q. And what is your present recollection now that it is refreshed as to how he described his job?

A. Just what I have here.

Q. Would you tell us what it is?

A. He states he is director of broadcast promotion for Universal. He is a contract employee.

MR. HOLTZMAN: I have no further questions.

MR. KNOPF: Any from the Committee?

(Committee members shake their heads in the negative.)

MR. KNOPF: Mr. Mendonsa?

MR. MENDONSA: No.

MR. KNOPF: Mr. Mendonsa?

MR. MENDONSA: I call my next witness Mr. Alan Griffiths.

He will be with us in a matter of seconds.

ALAN GRIFFITHS,

called as a witness, was examined and testified as follows:

EXAMINATION

BY MR. MELDONIAN:

Q Mr. Griffiths, you are the Assistant Executive Director of the Writers Guild of America, West, Inc.?

A Yes, I am.

Q And you have been since September of 1972, as you testified in prior hearings?

A Yes.

Q And as you testified in prior hearings, if anyone was in need of a pass to enter a struck premises, that pass would have to be obtained through your office?

A Yes.

Q And your office would keep a record of all such requests and passes issued?

A Yes, we have done so.

Q And at my instruction have you checked your records to find out if a request for such a pass has ever been made by Jerome Bredouw?

A I have checked, and we have no record of a pass being issued to Jerome Bredouw.

Q Or of a request being made?

A Or of a request being made.

MR. KNOPF: Mr. Holtzman?

MR. HOLTZMAN: Thank you, Mr. Chairman.

EXAMINATION

BY MR. HOLTZMAN:

Q Mr. Griffiths, pursuant to the policies under which you were operating in March of 1973 and specifically on or about March 16, 1973, had Mr. Bredouw applied to you for a pass to enter the premises of Universal City Studios for the purpose of performing duties as director of broadcast publicity, would you have been able to issue any such pass?

A I would not have been authorized under the terms of the Guild's strike order or the strike rules that were prevailing.

MR. BLANKFORT: Was it generally known in the membership that one could apply for the pass?

THE WITNESS: Yes.

MR. BLANKFORT: Was this done through letter notification?

THE WITNESS: Yes, through a card or circular to the membership.

MR. BLANKFORT: Okay. Thank you.

MR. KNOPF: Any further questions?

MR. MENDONSA: Nothing further.

MR. HOLTZMAN: Nothing further.

MR. MENDONSA: At this time I would like to offer into evidence the Guild's work record -- I am sorry -- Guild credit record for Mr. Jerome Bredouw. I offer this as Guild

Exhibit No. 1.

May we stipulate this is a record kept in the normal course of business?

MR. HOLTZMAN: So stipulated.

MR. MENDONSA: So offered in evidence.

MR. HOLTZMAN: No objection.

MR. KNOPF: Received.

MR. HOLTZMAN: And I particularly invite the attention of the Committee to --

MR. BLANKFORT: Would you mind holding it until we get it.

MR. HOLTZMAN: When the Committee gets it, Mr. Chairman, I urge the Committee to examine it.

MR. MENDONSA: We will offer as Guild Exhibit No. 2 the work record and dues record for Mr. Jerome Bredouw.

MR. HOLTZMAN: Mr. Chairman, I presume the copy that is being made available to the Committee is equivalent in quality or lack thereof to the copy that has been furnished to us. I'm sorry to say it's substantially illegible. And I don't know what can be done about this, but --

MR. KNOPF: Can you read it, Mr. Mendonsa?

MR. MENDONSA: It is blurry but not illegible. But I have the originals that will be made available to the Committee at any time.

Is your copy any worse than this one?

(Handing document to Mr. Holtzman.)

This one appears legible to me.

MR. HOLTZMAN: This is a little bit better, but not

much.

MR. MENDONSA: You may examine the original.

MR. HOLTZMAN: For the sake of the record, I would ask that the original be placed in evidence, and perhaps the reporter can be asked to use a different copying system.

MR. POE: It can be put through again.

MR. MENDONSA: We can rerun it through here. The reason I am reluctant to let it out of the Guild's hands is because it is a record used continuously by the Guild. So we will substitute better copies, and let me give you better copies.

MR. HOLTZMAN: The record may show we have on objection to the introduction of the document.

MR. MENDONSA: May I ask, then, that we also in this record incorporate the Guild Constitution and By-Laws effective as of January 18, 1973, and the strike orders or the strike order -- strike that.

Let's incorporate the Constitution and By-Laws and the Rules for the Conduct of Members During a Strike and in addition the strike orders dated March 5, 1973, and March 15, 1973.

MR. HOLTZMAN: We have no objection. I understand this to refer to the Constitution and By-Laws, the Rules for the Conduct of Members During a Strike dated February 20, 1973, which were those in effect at the time of the charges here and the strike orders dated March 5 and March 15, 1973, respectively.

MR. MENDONSA: That is correct.

MR. HOLTZMAN: These may be incorporated into this record as though fully contained herein.

MR. MENDONSA: With that the Guild will rest its case.

MR. KNOPF: I would like some clarification of the -- which exhibit is this? Is this the work record.

MR. MENDONSA: Guild Exhibit 2, work record.

MR. KNOPF: Let's go to Page 3. Would you very quickly take us through that. I am interested in knowing what the earnings are for and what the years are for with the time period, because I can't make it out. Emmy Awards, ABC --

MR. MENDONSA: Starting at the top, Emmy Awards, ABC, two hours dated June 4, 1967. Apparently no earnings on that, or that is the work on which he came into the Guild.

MR. KNOPF: What is the year?

MR. MENDONSA: 1957.

MR. KNOPF: What is next?

MR. MENDONSA: He became a member in 1967 probably on that work assignment. He paid no dues. He was transferred to the Guild in -- the Guild here in the West in 1969, I believe.

MR. KNOPF: John, I can't make out what it was for. $4,500 or something.

MR. MENDONSA: That is the next thing. - Kraft Music Hall, three shows. And apparently total earnings of that as a writer of $4,500.

MR. KNOPF: No credit.

MR. POE: Does that say "with Thunberg" or "with Tunberg"?

MR. MENDONSA: No, no, no.

MR. HOLTZMAN: Is this the last date, Counsel?

MR. MENDONSA: This would be the last quarter of 1967.

MR. HOLTZMAN: That would be during his period of membership with Guild East?

MR. KNOPF: But apparently no credit.

MR. MENDONSA: Apparently no credit. The credit record would not reflect the period of time.

MR. HOLTZMAN: Bearing in mind the fact that he was transferred to the West in 1969.

MR. MENDONSA: That may be incorrect. May I take a moment here.

I tell you that is confusing to me on the front of the card whether or not he was transferred in 1969 or 1967, and the first entry, whether that is an employment satisfying the eligibility requirements or one for which he had no earnings. I don't know.

May we call as our witness, then, somebody from the membership department who can interpret this?

MR. KNOPF: Someone who can take this through what his writing assignments were.

MR. MENDONSA: Let me take a few minutes and have someone come in who can give me an explanation of the record.

MR. KNOPF: We are in recess.

(Recess.)

MR. KNOPF: Notice the proceedings have been considerably brightened.

MR. MENDONSA: Are we back on the record?

MR. KNOPF: Certainly, I hope that is on the record.

MR. MENDONSA: If this is the Guild's witness, I will reopen the case to present the next witness.

MR. KNOPF: Please do.

MR. MENDONSA: Call the next witness, Jeri Preciado.

JERI PRECIADO,

called as a witness, was examined and testified as follows:

EXAMINATION

BY MR. MENDONSA:

Q Miss Preciado, you testified in an earlier hearing you are employed by the Writers Guild of America -- I am sorry. Give us your position in the department.

A. I am assistant membership secretary.

Q. And, again for the record, give us a brief description of your duties.

A. I am in charge of all the dues to the Committee of the Guild for the members and in charge of all the legal contracts that come in on the writers' behalf. I post them to the cards and I allocate all the moneys against each individual contract.

Q. And you keep a record of all of the employment and all the dues when they are paid?

A. Yes.

Q. I show you Guild Exhibit 1 in evidence and ask you if this is the card that you are referring to.

MR. HOLTZMAN: Isn't that Exhibit 2?

MR. MENDONSA: I am sorry. Guild Exhibit 2.

Q. Is this the card that you were referring to?

A. Yes.

Q. This is the work record then and the dues record for Jerome Bredouw. I refer you to the back of the second page or the third page of the document, and would you, starting at the top, give us a complete explanation of what the entries mean.

A. Starting on the very top of this, 1967. 6-4-67 is the date for the Emmy Awards for ABC, two hours, which was paid to Writers Guild East so there was no earnings listed here.

Directly underneath is Bob Banner's Kraft Music Hall, listed three shows. Dues were paid of $4,500.

Q. When was that?

A. The second quarter of 1968.

MR. POE: Was that paid to the East?

THE WITNESS: No. That was paid to the West.

First quarter of 1969, Avco Embassy, "Incredible Sunken Treasure of Geneva," contract date 12-27-68, $5,000 was paid first quarter of 1969.

Q. BY MR. MENDONSA: That was $5,000 in total earnings?

A. Yes, $5,000 in earnings. Dues were paid on $5,000 in the first quarter of 1969 and $13,750 were paid in the

third quarter of 1969.

Q That was also for --

A. For the same thing with a notation on the card that that was the total received. And that comes from the member.

Second quarter of 1970, he did Universal's "The Bold Ones," which he paid dues of $3,250. Contract date --

Q $250?

A. $3,250. Contract date was 4-2-70.

MR. BLANKFORT: When you say $3,250, that's his gross payment?

THE WITNESS: Yes. All dues are paid on the gross.

Directly underneath was a Universal miscellaneous "Commando" production number 81403, which he paid dues on $2,525.81 and $849.55. $849.55 was paid in the third quarter of 1970. $2,525.81 was paid in the second quarter of 1970. Fourth quarter of 1970 he has listed ABC "Movie of the Week," $439 is what he paid dues on. Third quarter 1971 was "The Bold Ones," "People Against Dr. Chapman" is the title, paid dues on $1,345. Fourth quarter 1971, his residual total was $403.50, which he paid dues on $403.50. And that was the last entry on this card.

Q BY MR. MENDONSA: Now directing your attention to the front of the first card, Page 1 --

MR. KNOPF: I have a question, if I may, first ask.

On the "Movie of the Week," $439, that is a very peculiar figure.

THE WITNESS: Yes.

MR. KNOPF: What would that be for?

THE WITNESS: He has it listed only as television. He never listed what it was for.

MR. KNOPF: Maybe Mr. Shane later on can answer that one. That is a curious figure. I don't know if we have anything on NBA that would authorize $439 a week.

THE WITNESS: I didn't have the contract, so I couldn't determine it.

Q BY MR. MENDONSA: Directing your attention to the card, can you tell from Page 1 how long he had been a member of the Writers Guild of America, West, Inc.?

A October of 1967.

Q And you are referring to the upper right-hand corner of Page 1?

A Yes.

Q And immediately in the column to the left of that it says "Associate 5/69." Will you tell us what that represents?

A He became a member of the television branch October of 1967 and then became a member of the screen branch in May of 1969.

Q And can you tell us what his status in the Guild is at this time?

A He is an associate member.

MR. POE: Is there any way of telling how long he has been an associate member?

THE WITNESS: The only thing I can say is 10 of '67. He transferred from the East as an associate member.

MR. POE: But after that he did enough work here to qualify as an active member, did he not?

THE WITNESS: Not really before. Because we have recently had the changeover in the credits, and this was prior, I believe, to the time that would give him enough units to become current. He probably shortly can become current if he can, you know.

MR. MENDONSA: I have no further questions.

EXAMINATION

BY MR. SUSMAN:

Q. I understand the last writing work he did insofar as the record is concerned is the third quarter of 1971.

A. Yes. Third quarter of 1971 was the last writing assignment. Fourth quarter of 1971 he merely reported dues on residuals.

MR. KNOPF: That would be 18 months ago, roughly, 20 months ago.

MR. SUSMAN: Thank you.

MR. KNOPF: Are there any more questions?

MR. MENDONSA: Nothing further.

MR. KNOPF: Thank you for your interpretation.

MR. HOLTZMAN: Thank you.

MR. MENDONSA: The Guild again rests its case.

MR. KNOPF: I am sorry. We were in conference. You said no further witnesses?

MR. MENDONSA: Yes.

MR. HOLTZMAN: Mr. Chairman, on behalf of Respondent

Jerome Bredouw, I respectfully move to dismiss the charges at the conclusion of the Guild's case based upon a total lack of proof of the charge. The motion, for the record, will be based upon each and all of the grounds individually and conjunctively which we asserted at the outset of these proceedings. But in addition to this I want to focus directly upon the quantum of proof that has been adduced at this hearing or, I should say more accurately, the total lack of proof. I think we have established that Mr. Bredouw is an associate member of the Guild. Beyond that the total sum of evidence is that there was a telephone conversation with him on March 16, 1973, that he stated during the course of that conversation that he was at Universal City Studios. And I don't think there is anything more.

Now, I point out that the charge, the specification of the charge is that Mr. Bredouw crossed a Guild picket line at Universal City Studios, Incorporated, on March 16 and thereafter for the purposes of rendering services to Universal City Studios, Incorporated, which was thereafter on the strike list. There has been no evidence whatsoever indicating that there was a picket line on the Universal City Studios, Incorporated, on March 16, 1973, at any entrance. There is no evidence before this Committee that on that date or at any time Mr. Bredouw crossed a Guild picket line. There is no evidence before this Committee that Mr. Bredouw performed any services for Universal City Studios, Incorporated, on March 16, 1973 or at any other time thereafter.

Very succinctly, gentlemen, there has been a total lack of proof in this matter. And even drawing the strongest possible inferences from the testimony, I don't think there is anything here upon which your conviction could conceivably be based. I don't know what else I can say. There is no evidence.

MR. KNOPP: Mr. Mendonsa?

MR. MENDONSA: Yes. Again, the evidence has shown that Mr. Brodouw is in fact a member of this Guild by his own statements. He stated that he was entering and was going to continue to enter the studios at Walt Disney Productions that he was -- I am sorry -- for Universal City Studios, and that he was in fact working or rendering services to that company and that company was in fact on strike, the Guild was on strike against that company at that time.

As far as the fact of establishing a picket line or evidence to establish a picket line, the members of this Committee are members of this Guild. They, I think, may take judicial notice of the fact that there were picket lines established at all major production companies during that period of time.

MR. BLANKFORT: Mr. Mendonsa, you are asking us to infer from our general knowledge; is that right?

MR. MENDONSA: That is correct. From your knowledge of the mailings and your knowledge of the news releases and so on and so forth.

MR. BLANKFORT: But as far as we have heard here, as

far as the witnesses which have been presented to us, have, in your judgment -- although you have already said it -- would it be fair for me to say that we have not heard any direct evidence that there was a picket line?

MR. MENDONSA: You have not heard any direct evidence in this hearing that there was a picket line at Universal, but you have heard that in two other cases which have been in part incorporated into this record, although that part has not specifically been incorporated into this record. Aside from that, there is an allegation that this person has entered studios for the purpose of rendering services to a struck producer. There is no question of having crossed a picket line to have rendered those services. It would be a violation of strike rule 13. He entered the premises of a struck producer to render services, and he did so without having obtained a pass in order to cross a picket line to enter the struck premises.

MR. SUSMAN: May I make one statement. In this case, unlike the others, the call emanated from Mr. Bredouw about which Mr. Sanford testified, and, for all the record shows, he could have called from home, he could have called from New York, he could have called from anywhere else. And Mr. Sanford did not state at any time that Mr. Bredouw told him he was at the studio or anywhere else. All he said was he was in a bind, he was caught between his employer and the Guild, and that was his situation. But there is no testimony at all he was even at the studio on that date or any other date. Nor was any call made to the studio to reach him there.

MR. KNOPF: Mr. Mendonsa?

MR. MENDONSA: Well, I believe that the witness did testify that Mr. Bredouw did state at the time he was calling that he was at work and was working.

MR. SUSMAN: That could be conducted anywhere as a publicist.

MR. HOLTZMAN: My notes said he was working at the time. It might be possible that he was working at the studio, but the inference is equally possible that he was at a laboratory, at his home, perhaps even in a different city. I don't think there is any necessary or permissible evidence that he was at the studio premises. I think it is a fair inference to be drawn that he suggested the probability that he would continue working. But that inference is not enough. This tribunal requires direct evidence that he crossed a picket line for the purposes of rendering services. There has been no evidence on either point.

MR. POL: Are you making a motion for dismissal?

MR. HOLTZMAN: I am, sir.

MR. KNOPF: I think we will caucus.

(Recess.)

MR. KNOPF: We will return to session.

Mr. Holtzman, your move for dismissal has been accepted.

MR. MENDONSA: May I ask the Committee to reconsider.

During the period of the recess I have asked the court reporter to mark the pertinent testimony of Mr. Sanford's testimony. And if I may, may we have her reread

it, please.

(Brief interruption.)

MR. MENDONSA: May we have the court reporter reread the testimony, that portion of the testimony I have asked her to mark?

MR. KNOPF: Please.

(The record was read as follows:

"A ...If I recall correctly, he said he was a member of the Writers Guild East but he was a member of the Writers Guild, stated that he had only written a couple of scripts and that he had a dilemma inasmuch as he had a contract with Universal and that was how he made his living. And he inquired about what our rules were about crossing the picket lines in view of his status. And I told him about what I knew. My instructions were that -- were that if he, being a member of the Writers Guild, prohibited him by our strike rules from crossing our picket lines. And I warned him about the danger of that. And he responded that he had this dilemma. This is how he made his living, and he couldn't very well quit his job and honor our strike rules. So we left it at that. I told him I would write a report on it, and I would see

what happens. I would say as a person the conversation was very friendly. We both recognized each side had a problem. He did volunteer, by the way, anywhere we wished him to picket except at universal. He felt that might be a little embarrassing to him.")

MR. MENDONSA: It seems to me that the clear inference was in fact that he was calling because he had a dilemma, that he said he could not quit work to honor the strike rules, which it was pointed out to him that it would be a violation to cross the picket lines and that he was working at the time of the call. It seems to me clear that the inference was in fact he was working, that he was working at the studio, that he was calling to find out what would happen to him if he was to cross the line and if he was crossing the line. And he found out what would happen to him. He said he couldn't very well honor those rules.

On the basis of that testimony, I ask that the Committee reconsider its decision.

MR. KNOPF: The Committee maintains its position. Move for dismissal.

MR. KOLTZMAN: Thank you, Mr. Chairman.

(The hearing was concluded.)

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

I, Carol J. Gertz, CSR, a Notary Public for the State of California, certify:

That the foregoing proceedings were had before me at the time and place therein set forth, and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

That the foregoing 35 pages represents a full, true and correct transcription of said proceedings.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this 20 day of June, 1973.

Carol J. Gertz

Notary Public of the State of California

ORIGINAL

INTRAUNION DISCIPLINARY HEARING

In the Matter of

WRITERS GUILD OF AMERICA, WEST, INC.,

Petitioner,

vs.

JON EPSTEIN,

Respondent.

No._____.

TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

May 24, 1973

Reported by:

Carol J. Gertz, CSR

COLEMAN, HAAS, MARTIN & SCHWAB
1830 WEST 8TH STREET • SUITE 201
LOS ANGELES, CALIFORNIA 90057
DU 1-3701

UNION DISCIPLINARY HEARING

In the Matter of)
)
WRITERS GUILD OF AMERICA, WEST,)
INC.,)
)
Petitioner,)
)
vs.)
)
JON EPSTEIN,)
)
Respondent.)

TRANSCRIPT OF PROCEEDINGS, taken on behalf of petitioner, at 8955 Beverly Boulevard, Los Angeles, California, commencing at 4:15 P.M., Thursday, May 24, 1973, before Carol J. Gertz, CSR - Notary Public.

TRIAL COMMITTEE:

Christopher Knopf, Chairman
James Poe
Jack Hamaster
Michael Blankfort
Ernest Lyon

APPEARANCES:

FOR PETITIONER:

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LOS ANGELES, CALIFORNIA, THURSDAY, MAY 24, 1973

4:15 P.M.

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MR. KNOPF: We are in session. The hearing will come to order. This is a disciplinary hearing in the matter of Writers Guild of America, West, Inc., versus Jon Epstein. This matter is being heard before a trial committee duly convened pursuant to Article 10 of the Constitution and By-Laws of Writers Guild of America, West, Inc. The members of the trial committe are James Poe, Nate Monaster, Michael Blankfort, Emmet Lavery, and Christopher Knopf, Chairman.

Will the parties please state their appearances for the record.

MR. MENDONSA: John A. Mendonsa on behalf of the Executive Director of the Writers Guild of America, West, Inc.

MR. KNOPF: For respondent?

MR. HOLTZMAN: Robert A. Holtzman for Respondent Jon Epstein.

MR. SUSMAN: And Allen E. Susman of Rosenfeld, Meyer & Susman.

MR. KNOPF: Are there any other appearances to be made in this matter?

MR. HOLTZMAN: No, there are not.

MR. KNOPF: These are closed hearings. Anyone not specifically connected with the proceedings will be asked to leave.

I will introduce the Trial Committee exhibits. I have here a copy of the charges and a cover letter sent by certified mail to respondent on April 14, 1973. I have marked these as Trial Committee Exhibit No. 1.

Is there any objection to the receipt in evidence of Trial Committee Exhibit 1?

MR. HOLTZMAN: No objection.

MR. KNOPF: I have marked as Trial Committee Exhibit 2 a two-page letter requesting a continuance of the hearing dated April 23, 1973, addressed to John Mendonsa, Esq., and signed by David G. Miller for Loeb & Loeb.

I have marked as Trial Committee Exhibit No. 3 a letter requesting continuance of the hearing dated April 25, 1973, addressed to John Mendonsa and signed by David G. Miller of Loeb & Loeb.

I have also marked as Trial Committee Exhibit 4 a two-page letter granting a continuance to May 24, 1973, dated April 27, 1973, addressed to David G. Miller and signed by John A. Mendonsa, Resident Counsel, Writers Guild of America.

Is there any objection to receipt in evidence of Trial Committee Exhibits 2, 3 and 4?

MR. HOLTZMAN: No objection.

MR. MENDONSA: No objection.

MR. KNOPF: They will be received.

MR. HOLTZMAN: Mr. Chairman, gentlemen, we have certain motions and objections which we desire to place on the record at this time. In accordance with the procedure

previously adopted, I am merely going to state the number and grounds of the motions or objections, as the case may be, and I respectfully request that we be permitted to adopt by reference the specific grounds for motions and argument set forth in the hearings which have preceded this one. For the record, these are the hearings of David Victor, Albert Ruddy, Herman Saunders, Michael Chichton, Frank Paris, and Jerome Bredouw. We respectfully request that each and all of the grounds asserted and each and all of the arguments made in each and similar of those motions be incorporated into the record and adopted here. And we are agreeable to having the motions stated and objections similarly incorporated.

MR. MENDONSA: We will agree.

MR. HOLTZMAN: We will state the motions and objections we make, pointing out that although they are very abbreviated we nevertheless urge these motions with sincerity. And it is our position that each ground separately stated provides ample reason for the dismissal or continuance of this matter, as the case may be.

The first motion we make, again, is to require the Guild and its executive director to present the charge against Mr. Epstein in the form and substance required by the Constitution and By-Laws of the Guild and by law. The reference is to Article X-B, Sections 1 and 5 of the Constitution and Bylaws, and Section 411A5 of the Labor-Management Reporting and Disclosure Act.

As Motion 1-A, we ask the Committee to dismiss

the charge against Mr. Epstein on the ground it is vague, uncertain, and ambiguous. The reference in this case is to the Constitution and By-Laws of the Guild, and specifically to Article X-B, Section 1 thereof, and to Section 411 of the Labor-Management Reporting and Disclosure Act. In this regard, we point out that the charge in this matter relates to the crossing of the Guild picket lines at Universal City Studios, Inc., during the month of April 1973. There being no further specification of date of the offense and notwithstanding the broad language utilized, the charge was mailed under date of April 14, 1973, and apparently received not later than April 15, 1973.

The charge is further vague and uncertain and ambiguous in that it accuses this gentleman of rendering services for Universal Television, Inc., notwithstanding the fact that there is no specification whatsoever of the nature of the services and no indication whether they fall within or without the scope of jurisdiction of the Guild.

We further move to dismiss the proceeding -- this is now Ground No. 2 -- on the ground that the Guild has no jurisdiction to proceed against Mr. Epstein in that he is an associate or inactive member, according to information provided to us, and not a current member, and thus he is being prosecuted in respect to a matter where he was not entitled to vote either on the strike itself or on the Rules for the Conduct of Members During a Strike.

The third ground of motion is to require clarification of a specific ambiguity in the charge in that

the charge refers only generally to the rendering of services for Universal Television, Inc., without specification of the nature of the services while at the same time, in a public document placed on file with the National Labor Relations Board, the Guild indicated that the threats of discipline were, quote, "directed solely to disuade members from crossing the picket lines to perform writing work as defined in the recently expired collective bargaining agreement with the association."

We further move to dismiss the proceeding or to stay the proceeding based upon the Constitution and By-Laws of the Guild and the failure of the procedure adopted here to comply with the Constitution and those By-Laws in that the charges are required to be presented by the executive director of the Guild and not by any delegate. And it is now apparent from the record and the appearances that the charges are sought to be presented by some person other than the executive director in contravention of Article X-B, Section 6. In the light of the structure of the Constitution and By-Laws, this is a violation of the constitutional right of confrontation.

Ground of Motion No. 5, we move to dismiss the proceeding on the ground that the Guild has no jurisdiction to impose discipline or to threaten to oppose discipline on any person acting in the capacity of an executive, a supervisor, or a management representative, and that it is a matter of common knowledge that Mr. Jon Epstein falls within each and all of the categories to which I have referred in

his capacity as a television producer.

As a corollary of the foregoing -- and this is Ground No. 6 -- we move to continue this proceeding until such time as the National Labor Relations Board in the proceedings now pending before it have determined the question therein raised, whether the Guild has jurisdiction to proceed against a member who is also a motion picture or television producer acting as such.

Ground No. 7, and again a corollary of the foregoing, we move to dismiss the proceeding on the grounds that the Guild has no authority or jurisdiction to discipline or to attempt to discipline any person acting in a field of endeavor or occupation outside of the scope of the Guild's jurisdiction as exclusive bargaining agent. The argument in that regard is that the Guild is a certified exclusive bargaining agent only for writers acting as such, and, that in the performance of his duties acting as a producer, Mr. Epstein is plainly outside of the Guild's jurisdiction and therefore outside of the scope of its authority to impose discipline.

As ground of Motion No. 8, we move to dismiss this proceeding on the ground that the interest of the members of the Committee, as presently constituted, in the outcome of the proceeding is such that, consciously or unconsciously, the Committee could not, without invading its own interest, decide the matter on the merits in a manner favorable to Mr. Epstein and would be subconsciously required to weigh any finding of fact or any determination in a disputed matter in

his favor. The nature of the Committee, in its identification with the highest level of management in the Guild, creates this interest, and the Committee as constituted thus fails to meet the standard articulated in Article X-B, Section 4 of the Constitution and By-Laws.

As Ground No. 9, we challenge any panel composed of members of the Writers Guild of America, Inc., on the ground that, at least during the pendency of the present strike, no member could reasonably be expected to act impartially and that only a group of totally disinterested members who are not members of the Guild could impartially sit in judgment. This latter motion is in the alternative, either to dismiss the proceeding or to continue it to a date in time substantially beyond the end of the present pending strike.

As Ground No. 10, we respectfully and with no aspersions whatsoever move to dismiss the matter on the ground that the Committee as presently constituted has as its chairman the first named plaintiff in the matter of Christopher Knopf against Producers Guild of America, a civil court action now pending in the appellate courts of this state and involving the status of motion picture producers and the Producers Guild of America.

The continued pendency of this civil action and Mr. Knopf's status therein renders it inappropriate for a Committee which he chairs to sit in judgment of any matter respecting a motion picture producer.

And, finally, we move to dismiss, or in the

alternative, to continue the matter on the ground that the existence of publicity and the existence of an emotionally charged atmosphere created prejudice against the respondent and persons similarly situated and prevent the dispassionate and impartial adjudication of this matter at this time. The motion is in the alternative either to dismiss the same or to continue it to a date sufficiently beyond the end of the strike to alleviate the problem of passion and prejudice created by adverse publicity.

We make these motions, each and all, on the grounds I have suggested and which have been substantially amplified in earlier hearings urging that each one taken separately is more than adequate to compel the dismissal or continuing of the matter and that the cumulative effect of all of them necessarily compels that result.

MR. SUSMAN: I have one to add. Motion No. 12 to dismiss on the ground that the charge, the notice of charges states that Mr. Epstein is charged with having crossed Guild picket lines for the purpose of rendering services to Universal Television, Inc., against whom the Guild was at such time on strike. And there is no entity known as Universal Television, Inc.

MR. KNOPF: Mr. Mendonsa?

MR. MENDONSA: Yes. The Writers Guild will stand on its arguments in opposition to the motions made in the previous cases which have been incorporated into this record.

In addition, I wish to make only one observation

or one comment. The Guild does not join in respondent's opinion that it is of common knowledge that Mr. Epstein is a supervisor or managerial employee within the meaning of the National Labor Relations Act and that the only forum authorized to make such a decision is the National Labor Relations Board which has been empowered by Congress to make decisions with respect to supervisorial or managerial status.

MR. KNOPF: Mr. Holtzman and Mr. Susman --

MR. HOLTZMAN: Mr. Chairman, before the Committee rules, I wonder if I might have a brief recess to consult with Mr. Mendonsa concerning some of the documents which have been furnished to us and in particular the strike orders which have been furnished.

MR. KNOPF: Could I ask whether or not it will eventuate another motion on your part?

MR. HOLTZMAN: Well, I think it might result in a specification of the motion which has just been made by Mr. Susman. Let me indicate what concerns me on the record, and perhaps we can resolve this very quickly.

The charge, as Mr. Susman has noted, relates to the rendering of services for Universal Television, Inc. Mr. Susman has stated there is no such entity. In examining very quickly the strike order which is dated March 5, 1973, and which to my knowledge is the only strike order which was published prior to the date of the charges herein, I see no reference to Universal Television, Inc., as an entity specifically identified against whom the Guild was at such time on strike.

MR. KNOPF: Mr. Mendonsa, it seems we disposed of that problem once before. Do you care to amplify?

MR. MENDONSA: I think once again the Guild has stated specifically that the man had crossed the Universal picket lines, that he has gone in to work for Universal Television, Inc. I offered in a prior case to amend the charges to conform then with the evidence, and the evidence in the prior case showed that there is a branch of Universal City Studios known as UTV, it is a part of Universal Television. And I would point out on the strike order dated March 5, the last paragraph states that "and any such subsidiary companies or any other companies which are controlled by any of the aforesaid companies." And the aforesaid companies would include Universal City Studios, Inc. We would make some motion to conform the charges to the evidence in this case.

MR. KNOPF: Mr. Susman, was there any confusion in your mind as to the location in question?

MR. SUSMAN: As to the location?

MR. KNOPF: Yes. The statement itself of the charges or what, Mr. Mendonsa?

MR. MENDONSA: Universal Television, Inc.

MR. KNOPF: Was there any question in your mind as to what was meant by that?

MR. SUSMAN: The same question that appears in any kind of pleading or complaint or charges, and that is that my concept of what we are confronted with is embodied in the document. And when Mr. Epstein is charged with rendering

services to a nonexistent entity, it would indicate to me that the complaint and the charges are fatally deficient in that charge.

MR. KNOPF: I don't think so.

MR. SUSMAN: If you take that together with the Constitution and By-Laws which require a specific matter and specific assertion of the charges, it seems to me there is a fatal and inherent deficiency.

MR. KNOPF: Mr. Susman, I would put your fears at rest. There is really no question in the Trial Committee's mind as to what the location in question is. And if I may reply to Mr. Holtzman and to you, Mr. Susman, it has been our custom and practice to recess following presentation of motions to dismiss or continue. We have considered Motions 1 through 12 in executive sessions in matters relating to previous cases, and you have introduced no new motions to dismiss or continue. Our response is the same to these motions. We deny the motions.

I will ask for opening statements.

Mr. Mendonsa, do you wish to make one?

MR. MENDONSA: The Guild will simply prove that on or about April 11, 1973, that the respondent Jon Epstein had crossed the Guild's picket lines at Universal City Studios, Inc., for the purpose of rendering services to that company and thereby violated Sections 1, 12, and 13 of the Rules for the Conduct of Members During a Strike dated February 27, 1973, and the Guild Strike Orders dated, I believe it is, March 5 and March 15. There was another Strike Order dated

April 11. That should also be included.

MR. HOLTZMAN: Mr. Mendonsa, I don't think we have been furnished with any Strike Order dated April 11. We have heretofore been furnished with orders dated March 5, 1973, March 15, 1973, which appears to be a partial document, and two documents dated March 19 -- strike that. I am sorry -- March 19 and March 27, 1973, respectively. There is a further document --

MR. MENDONSA: There was another Strike Order dated April 11, 1973. If you wish to take a look at it. I only have one copy at the present time.

MR. HOLTZMAN: Is there a representation this was mailed out to the members in a fashion you indicated the previous documents were mailed out?

MR. MENDONSA: Yes.

MR. HOLTZMAN: May the record indicate that counsel has handed me a copy of the document denominated "Notice to All Members, Strike Order," and bearing the date April 11, 1973, a legend in very large letters at the top, I quote, "Attention," exclamation, end quote. And this is not a document that has been previously furnished to me. I would appreciate a copy for our records.

MR. MENDONSA: I will get a copy for you.

MR. KNOPF: A question on that, Mr. Mendonsa. Have the membership been furnished with this?

MR. MENDONSA: Yes.

MR. KNOPF: How would they have been furnished these?

MR. MENDONSA: Through the mails.

MR. KNOPF: Current? Non-current?

MR. MENDONSA: Every member of the Guild.

MR. KNOPF: Have you concluded your opening statement?

MR. MENDONSA: Yes.

MR. KNOPF: Mr. Holtzman?

MR. HOLTZMAN: We will defer a statement.

MR. KNOPF: Will you call your first witness, Mr. Mendonsa.

MR. MENDONSA: Call our first witness, S. S. Schweitzer.

SAMUEL STEVEN SCHWEITZER,

called as a witness, was examined and testified as follows:

EXAMINATION

BY MR. MENDONSA:

Q. Mr. Schweitzer, you testified in earlier proceedings you are a member of the Writers Guild of America, Inc., --

MR. HOLTZMAN: What is the full name?

MR. MENDONSA: Yes. I am sorry.

Q. State your full name and spell it for the record.

A. Samuel Steven Schweitzer, S-c-h-w-e-i-t-z-e-r.

Q. Now, Mr. Schweitzer, how long have you been a member of the Guild?

A. I have been a member of the Writers Guild of America, West, since 1961.

Q. You have also testified in our earlier proceedings

you are a chairman of the Strike Investigatory Committee; is that correct?

A. Yes, sir.

Q. And approximately how long have you been a chairman of the Strike Investigatory Committee?

A. I guess since it was set up that third or fourth week in March.

Q. And can you give us a brief decsciption of your duties in that position?

A. We investigate infractions of strike rules by members, pass them along to the Disciplinary Committee when a case is seen, when a case develops.

Q. And in the process of your investigations, do you sometimes call members of the Guild?

A. Yes.

Q. Directing your attention to April 11, 1973, did you at that time on that date have a conversation with a member by the name of Jon Epstein?

A. Yes, I did.

Q. And did you call Mr. Epstein, or did he call you?

A. I called him at his office at Universal.

Q. And when you called his office at Universal, did he answer the phone?

A. Well, his secretary answered, and I identified myself, and I was put through to him.

Q. And when he got on the phone, did he identify himself as Jon Epstein?

A. Yes, he did.

Q. And will you tell us what you said to Mr. Epstein and what he said to you in that telephone conversation?

A. Well, I was calling because of a story in the trade papers about Mr. Epstein and, I think, two or three other writer-producers who had stated they were going back in to work at Universal. And he told me that was true. And he told me he felt he had no choice but to go in. He said he felt that he -- that he supported the writers strike. He made some reference to the fact that he did not think that he didn't -- he hadn't made much money as a writer, and he told me that he thought we could win the strike if every producer went in -- And he said also he wasn't going to do any writing or talk to writers -- and he said we would win the strike if all the producers who were members of the Writers Guild went in and sat in their offices and did nothing and collected money.

Q. Do you recall anything else having been said in that conversation?

A. They were just personal matters. I asked after the health of his brother, whom I had known for some 40 years. And I think that's about all I can remember.

Q. Did you advise him that he was in fact in violation of the strike rule?

A. Well, I advised him -- I identified my function, the reason for my call when I first spoke to him. I told him we were looking into this. And I did remind him that he was in violation of the strike rules by going in. And it

was at that time that he said that he had no choice.

Q. Did you advise him then that he would be subject to disciplinary action?

A. I advised him that I would be passing this report along to the disciplinary committee.

MR. MENDONSA: I have no further question.

MR. KNOPF: Mr. Holtzman?

MR. HOLTZMAN: Yes, sir.

EXAMINATION

BY MR. HOLTZMAN:

Q. Mr. Schweitzer, when you told Mr. Epstein that, in substance, you were calling as a representative of the investigating committee with respect to disciplinary matters and told him about the strike rules, what did you tell him about the rules?

A. I don't think I told him anything about the rules. I figured as a member of the Guild it was his responsibility to know the rules.

Q. Did you read him the Rules for the Conduct of Members During a Strike?

A. No, I certainly didn't.

Q. Did you read him any part of those rules?

A. No.

Q. Did you attempt to relate to him any substance of the rules in relation to conduct of the members?

A. Only insofar as I did not think he should be going in to work.

Q. Did you advise him of any of the penalties that might befall him should he continue to work?

A. No.

Q. Did you make any written memorandum or report of the conversation?

A. I made a written memorandum as soon as I had finished talking with him.

Q. Is that something you prepared in your own handwriting?

A. Prepared in my own handwriting, such as it is.

Q. Do you know what happened to that memorandum?

A. It went into a file folder and was part of the information that went to the disciplinary committee.

Q. That is a memorandum which you prepared immediately after the telephone conversation while it was still fresh in your mind?

A. Yes.

Q. And as far as you know --

A. I don't hear very well.

Q. As far as you recall, it accurately reflected what had just occurred while the matter was still quite fresh in your mind?

A. Yes. It was immediately after that.

MR. HOLTZMAN: We would ask that a copy of that memorandum be produced for our examination if you still have it.

MR. MENDONSA: I presume you are asking for it on the basis the witness has used that prior to this in order to

refresh his memory.

MR. HOLTZMAN: That's correct.

MR. MENDONSA: In that event, I have no objection to your looking at it.

And I am producing that for counsel's inspection.

MR. KNOPF: Could that be read?

MR. MENDONSA: That is, again, a matter -- I have no objection to it being read.

MR. HOLTZMAN: May we have a moment to examine it.

MR. KNOPF: Off the record.

MR. MENDONSA: Or it can be offered in evidence.

(Brief recess.)

MR. HOLTZMAN: Ready, Mr. Chairman.

MR. KNOPF: Please continue.

Q. BY MR. HOLTZMAN: Mr. Schweitzer, referring again to this telephone conversation --

A. Yes.

Q. -- was it Mr. Epstein's statement to you in substance that he felt he had no choice but to go in and work as a producer?

A. Yes.

Q. And he stated further that he did not plan to do any writing at work; is that correct?

A. That is correct.

Q. Or even to talk to writers?

A. That is what he told me, yes.

MR. HOLTZMAN: I have no further questions, Mr. Chairman.

MR. KNOPF: I have a question.

Mr. Schweitzer, you stated Mr. Epstein said to you -- This is a general quote -- "We will win the strike if the producers went in and sat there doing nothing."

Was it your impression that his motive in going in was to help the strike?

THE WITNESS: No. Would you like me to tell you? No. I think he looked at himself as being between a rock and a hard place, and that is why he went in. You asked for my impression.

MR. BLANKFORT: Do you know Mr. Epstein personally, Mr. Schweitzer?

THE WITNESS: Yes.

MR. BLANKFORT: I am not sure I recall exactly, although I wrote something down.

Do we have any other evidence as to what specifically his job was? As producer? Was that what was told?

MR. MENDONSA: That is what this witness's testimony is, what was told to him by Mr. Epstein.

MR. BLANKFORT: You mean he's describing his own job there?

THE WITNESS: As producer.

MR. BLANKFORT: With that line that Mr. Knopf just quoted?

THE WITNESS: Yes.

MR. KNOPF: Do you have any information as to what his job is?

THE WITNESS: I am not sure. I think it's -- I think he's producer of "Owen Marshall."

MR. BLANKFORT: A line producer?

THE WITNESS: A line producer, yes.

MR. BLANKFORT: For whom?

THE WITNESS: David Victor. If it's "Owen Marshall," it's David Victor.

MR. KNOPF: Did he give any information as to what he was doing?

THE WITNESS: Just inferentially that he wasn't going to be doing anything.

MR. KNOPF: Just helping the strike?

THE WITNESS: Just helping the strike.

MR. POE: Do you know him as a writer?

THE WITNESS: No, I do not know him as a writer.

MR. POE: Do you know of any writing he has ever done, to your personal knowledge?

THE WITNESS: No, I do not know of any writing he has done, to my personal knowledge.

MR. HOLTZMAN: How long have you known Mr. Epstein?

MR. BLANKFORT: I can't hear you.

MR. HOLTZMAN: How long have you known Mr. Epstein?

THE WITNESS: I met him a couple years back, a few years back. I don't know how long. And I have run into him a few times.

MR. HOLTZMAN: Would you say you were casual acquaintances or good friends?

THE WITNESS: At best casual acquaintances. As I say,

I have known his brother. I knew I was talking to Mr. Epstein and he was talking to me.

MR. HOLTZMAN: I take it you have met him on a social basis occasionally.

THE WITNESS: Yes.

MR. KNOPF: Thank you. I have no further questions.

MR. MENDONSA: Call as our next witness Robert Collins.

ROBERT COLLINS,

called as a witness, was examined and testified as follows:

EXAMINATION

BY MR. MENDONSA:

Q Mr. Collins, state your name and spell your last name, please.

A Robert Collins, C-o-l-l-i-n-s.

Q Mr. Collins, are you a member of Writers Guild of America, West, Inc.?

A I am.

Q And approximately how long have you been a member of the Guild?

A Approximately six years.

Q Now, have you served as a picket captain during the current strike?

A I have.

Q And approximately how long have you served as a picket captain?

A. Since the picketing began, which was March 6.

Q. And where do you serve as picket captain, or have you been assigned to a particular location?

A. At Universal City Studios.

Q. And are you currently a picket captain there?

A. Yes.

Q. Now, will you give us a brief description of your duties as a picket captain at Universal City Studios?

A. My duties consist primarily of seeing that pickets are on the line, reporting to the strike headquarters pickets who are not on the line, observing those members of the Guild who cross the picket line, and acting as a general liaison between strike headquarters and the picket line.

Q. Now, will you tell us approximately what dates, to the best of your knowledge, picketing was carried on at Universal City Studios?

A. On a regular basis picketing started on March 6, and on a regular basis ended May 14.

Q. And was there a period of time at which the picketing was carried on between the hours of 6:00 A.M. and 6:00 P.M.?

A. Yes. Until March 30 the hours were 6:00 A.M. to 6:00 P.M. From that time to May 14 they were 9:00 A.M. to 6:00 P.M.

Q. And when picketing was being conducted at Universal, were all entrances to the studio picketed?

A. Yes.

Q. And to your knowledge were there any times in

which the entrances were not covered between the dates of March 6 and April 30?

A. There were a few hours during the heavy rains that they weren't, when they weren't covered. And at isolated times one or another entrance might not have been covered because of the lack of people.

Q. Do you know approximately how many occasions on which that might have occurred?

A. You mean that an individual gave --

Q. Let me be more specific. Between the dates of March 6 and April 11, were there times in between those dates in which there may have been gates that were not covered at Universal?

A. Oh, yes.

Q. And approximately how many days would there have been gates not covered?

A. Never a complete day. There would be a period of hours when one or more gates were not covered.

Q. Well, on how many different days would that situation have existed?

A. Oh, I would say probably 10 or 12 days.

Q. And you are talking about the period between March 6 and April 11?

A. Yes. I am talking about isolated periods within those days that one or more gates may not have been covered.

MR. MENDONSA: I have no further questions.

MR. KNOPF: Mr. Holtzman?

MR. HOLTZMAN: Let's see. Just a couple of questions,

sir.

EXAMINATION

BY MR. HOLTZMAN:

Q. As picket captain did you make it your business to be there on each business day during the period you have told us about?

A. At some part of the day, yes.

Q. Were you covering other locations as well as Universal City Studios?

A. No, no, no. But I wasn't there the whole day each day.

Q. But you were there at least some part of the time on each working day during that period?

A. Yes.

Q. And this was true from March 6 on?

A. (Witness nods head.)

Q. You have to answer audibly.

A. Yes. I am sorry.

Q. Was there any regular pattern as to what time of day you arrived?

A. Well, I would generally be there at the beginning of each shift. There were three-hour shifts, so that would be 6:00 in the morning, 9:00 in the morning, noon, and 3:00 in the afternoon.

Q. And how long did you remain on each occasion?

A. Oh, anywhere from 10 minutes to half an hour.

Q. Just so I am very clear on this, do I understand

that your picketing hours were 6:00 A.M. to 6:00 P.M. during the period which commenced on March 6 --

A. Yes.

Q. -- and ended on March 30; is that correct?

A. Yes.

Q. And then from March 31 on -- March 31, of course, being Saturday -- your hours were then reduced to 9:00 A.M. to 6:00 P.M.?

A. Right, until May 14.

Q. So specifically on April 11, then, which was a Wednesday, during the month of April the hours of picketing would have then been 9:00 A.M. to 6:00 P.M.?

A. That's correct.

Q. Now, by my quick count, I will represent to you, sir, there were approximately 25 working days from March 6 to April 11. Do I understand your testimony that probably somewhere on 10 or 12 of those 25 days, during some part of the day you did not have a sufficient number of pickets to cover all of the gates?

A. That's fairly --

Q. On perhaps 40 to 50 percent of the days, at least during some part of the day between 9:00 A.M. and 6:00 P.M. some of the gates were not covered?

A. Right.

Q. I have noticed, sir, during the course of your testimony you have made reference to a small note that you had in your hands. Would you permit us to examine that, please?

A. Sure.

MR. HOLTZMAN: Perhaps hand that to counsel.

(Witness hands document to Mr. Mendonsa; Mr. Mendonsa hands document to Mr. Holtzman.)

MR. HOLTZMAN: I have no further questions, Mr. Chairman.

MR. SUSMAN: I might add one thing here. I believe the impression was left in the David Victor hearing, which was the first one that I attended, that the pickets were maintained from 6:00 A.M. to 6:00 P.M. into that period of April where Mr. Victor was alleged to have crossed a picket line. And in the interests of fairness, I would suggest that the testimony of this witness be deemed a part of the record in the David Victor hearing. I don't suppose there would be any opposition to that.

MR. MENDONSA: I would have no opposition to incorporating his testimony, if he is finished testifying. I have some more questions.

MR. SUSMAN: Is it so ruled by the Committee?

MR. KNOPF: You are asking for the acceptance of Margaret Armen's testimony in regard to picketing at Universal? Or am I incorrect?

MR. SUSMAN: No. The other way around. I am suggesting that the testimony of Mr. Collins be deemed a part of the record in the David Victor proceeding.

FURTHER EXAMINATION

BY MR. MENDONSA:

Q. Mr. Collins, you state that from the beginning of

April, April 2nd, there was picketing at Universal from 9:00 A.M. to 6:00 P.M.?

A. Right.

Q. Now, were there occasions in which there was picketing at an earlier time during that period of time?

A. Yes, yes.

Q. And can you tell us when that occurred?

A. I can't remember the date. It was a Monday. We -- where there was a special -- special call from 7:00 to 9:00. I believe it was the 19th. I may be wrong.

MR. BLANKFORT: What month are you talking about?

THE WITNESS: April.

MR. BLANKFORT: April.

Q. BY MR. MENDONSA: Was that only on one occasion, or was that on more than one occasion?

A. From what dates are you talking about now?

Q. Well, from April 2 is the date that you testified. From April 2 through May 14 there was picketing at Universal from 9:00 A.M. to 6:00 P.M.?

A. Right.

Q. Now, during that period of time there were occasions or at least one occasion when the picketing occurred at an earlier time, from 7:00?

A. One occasion.

Q. One occasion only?

A. Yes.

Q. And you believe that was a Monday?

A. Uh-huh.

Q. That would be about Monday, March 19, is that correct, showing you a calendar?

MR. HOLTZMAN: I believe the witness testified to April.

MR. MENDONSA: Oh, I am sorry. April.

THE WITNESS: Then April 16, I believe.

Q. BY MR. MENDONSA: April 16?

A. Uh-huh.

Q. And were you --

A. I was present.

Q. You were picketing on that date?

A. Uh-huh.

Q. Do you know Jon Epstein?

A. Yes.

Q. Do you recognize him when you see him?

A. Yes.

Q. Now, on or about April 16 did you have occasion to see Mr. Epstein?

A. Yes.

Q. Will you tell us under what circumstances you saw Mr. Epstein?

A. Driving into Universal Studios.

Q. And when he did so, did he cross a picket line?

A. He did.

MR. HOLTZMAN: Mr. Chairman, I respectfully move to strike this entire line of testimony and object to it and object to any continued testimony along this line on the ground that counsel is now referring to a date which is

beyond the April 11 date referred to in his opening statement and, perhaps more pertinently, beyond the April 14 date upon which these charges were mailed to him, according to Trial Committee Exhibit No. 1.

MR. KNOPF: Unless I have the wrong charges, it says "Specifically, you are charged with having crossed the Guild's picket lines at Universal City Studios, Inc., during the month of April 1973."

MR. HOLTZMAN: The charges so state, Mr. Chairman, but the fact remains that this specific charge was placed in the mail on April 14. According to the certified mail receipt it was delivered to him on April 15. And it would seem to be a manifest violation of due process to incorporate anything on the date of the charge itself. The same thing came up during the David Victor proceeding when again an effort was made to encompass matters occurring on April 16, after the charges were asserted and mailed on April 14. And the Committee ruled, very properly we think, that it would be inappropriate to go beyond the date on the charge, notwithstanding the fact that you had the general allegations reference to the month of April.

MR. MENDONSA: In this case, Mr. Chairman, Mr. Epstein had indicated that he was going to continue to cross the lines and go in to work at Universal City Studios. The fact that he did cross the line, I think, establishes at least or has some probative value to show that he had no reservations for at least crossing the line, whether he did so on the 10th or the 11th. We think that it has some

weight. We are not alleging that he violated the rules by crossing on the 16th at this time, but we do think that it has some weight to show that he did not have reservations at least right around that time for crossing the picket line.

MR. HOLTZMAN: We have a fundamental rule of evidence. I realize we are not applying the formal rules of evidence, but this is something that is fundamental to this proceeding. It is a fact that you cannot use acts of character to prove conduct. You cannot prove that a man did something wrong on date No. 1 to prove that he has a bad character for wrong-doing to prove that he has a bad character for doing something on date No. 2. And that is what he is doing. He is trying to prove that Mr. Epstein crossed a picket line on April 16, which is beyond the date of the charge, to prove he has a character for crossing picket lines to prove he did it on the 14th. And even though we are not applying the rules of evidence here, I suggest to the Committee that this is fundamentally wrong.

MR. BLANKFORT: Mr. Holtzman, would you mind clearing up for me something you said previously but I didn't quite assimilate. If the written charge is during the month of April 1973 and then Mr. Mendonsa in his statement mentioned the 11th -- is that right?

MR. HOLTZMAN: That is what he said.

MR. BLANKFORT: I just want to make sure I heard correctly when you made the argument. How does the fact that he mentioned the 11th nullify the written charge of

the whole month of April?

MR. HOLTZMAN: Let me put it this way. We have already objected to the charge in that it purports to encompass an entire month on the ground it is unreasonably vague, uncertain, and ambiguous.

MR. BLANKFORT: I understood.

MR. HOLTZMAN: When Mr. Mendonsa made his opening statement, at least it was our impression that he was going to limit his proof to the matters he encompassed in his statements. I would feel that he was bound by his own statement. And I really feel it is unfair for him to try to bring in other matters outside the scope of this statement.

But my objection really didn't go to that. My objection went primarily to the fact he is now trying to encompass incidents and periods of time beyond the date of the charges. There is an element of unfairness which we object to in going beyond the scope of the opening statement, but I would assert this as secondary ground. The primary ground is to the fact he is now attempting to prove matters beyond the date of the charges for which we could not possibly have been expected to prepare.

MR. LAVERY: Just a question on procedure. Granted in this kind of proceeding the rules are at least flexible or not overformal. Is it my understanding that as between the scope of Mr. Mendonsa's opening statement and the scope of the communication that you have in hand there now, as a lawyer you think the priority with the opening statement rather than with the basic original letter? There must be --

Don't you think, aren't you asking us to believe Mr. Mendonsa is limited by the opening statement, and, if that were true, then you mean that the oral opening statement has a priority over the basic written record?

MR. HOLTZMAN: Mr. Lavery, at this time I think he is limited by both, and I think they are both of equal dignity. One is a rule of procedure; the other is a matter of fundamental fairness, if you will notice, an opportunity to be heard and, therefore, due process of law. And when I talk about matters beyond written charges there, we are going to constitutional questions. When I talk about beyond the opening statement, these are matters of procedure. I object on both grounds, but I propose to give the ground relating to the charges and the matters after the charges constitutional dignity as well.

MR. SUSMAN: I think the fundamental principal very simple. If you serve a man with charges on, say, May 5, you cannot bring into evidence acts occurring after May 5 under those charges that have been lodged against him. He may have done all sorts of things after May 5. But May 5 is the cutoff date, because under your own Constitution the specific indication requires that the charge allude to acts done before the date of service of the charges. That is the basic point we are trying to get across.

MR. MENDONSA: So we won't belabor the point, I will withdraw my question and ask that that testimony be stricken.

MR. KNOPF: Thank you very much.

MR. MENDONSA: And I have no further questions.

MR. KNOPF: Mr. Holtzman?

MR. HOLTZMAN: I don't believe I have any further questions.

I would like to invite the Committee's attention to the testimony wherein it was stated that the one day in April on which the picket line was established at 7:00 A.M. was a Monday, the witness said Monday the 16th, and ask the panel to take judicial notice of the fact that April 11 was a Wednesday. I have a calendar here if anyone would desire to examine it.

MR. MONASTER: Mr. Holtzman, I have a question. We have hearings here which on one side we have cold denial of everything, objections, the law, citations, "Was it raining?" "What is your eyesight?" "What side of the street were you on?" "Was the signpost in front of your eyes?"

And on the other side we have fallible people who say "I think it was the 16th," "It may have been raining," "It may have been snowing," "It may have been 8:00 or 9:00 or 10:00 o'clock in the morning."

You preface each case with a statement about this elite group who is incapable of impartial decision. Nobody has ever pointed out to you that you are incapable of any impartial decision because you are paid to defend somebody and your loyalty is to them completely. And so how the hell are we going to sit here and create an atmosphere of truth?

MR. HOLTZMAN: This is a problem faced by every tribunal.

MR. MONASTER: This is all we have heard from you, is "Innocent." That is all we have heard. Give us some humanity. Give us some flexibility.

MR. HOLTZMAN: I have to be an advocate, just as Mr. Mendonsa has to be an advocate on the other side. This is in the nature of our adversary system. It is far from perfect just as witnesses have recollections far from perfect.

MR. MONASTER: We are far from perfect, but our imperfections are charged against us. But you say nothing, so you have no imperfections, you have no perfections.

MR. HOLTZMAN: God grant we have no imperfections.

MR. MONASTER: I don't believe in legal phrases.

I apologize for my outburst, which should have come three days ago.

MR. KNOPF: I think you know what we are trying to do is discover the truth. And though I am very respectful of what you are trying to do as an attorney, very respectfully I don't think you can let your efforts keep us from discovering the truth.

MR. HOLTZMAN: Quite the contrary. I hope my efforts aid in discovering the truth.

MR. POE: I would like to ask a question.

Mr. Collins, did you see Jon Epstein cross the picket line at Universal?

THE WITNESS: Yes.

MR. POE: When?

THE WITNESS: April 16.

MR. HOLTZMAN: I move to strike the answer for the purpose of an objection. I object to the Committee member's question on the ground it falls outside the date of the charges and that it relates to a period of time outside the charges.

MR. KNOPF: I am not going to strike the question because I think any question any member of this Committee wants to ask is within their purview.

MR. HOLTZMAN: I have made my motion and objection. It stands.

MR. KNOPF: Any further questions?

MR. BLANKFORT: Nothing.

MR. KNOPF: Nothing further.

MR. MENDONSA: Nothing further.

MR. KNOPF: Thank you very much, Mr. Mendonsa.

Mr. Mendonsa?

MR. MENDONSA: At this time we would like to introduce as Guild Exhibit No. 1 the credit record for Jon Epstein. I have given you copies of that already.

MR. HOLTZMAN: Yes. For the record, this is the one that bears the name in the upper left-hand corner of Jon Epstein.

MR. MENDONSA: That's correct.

Also at this time I would like to introduce as Guild Exhibit 2 the credit record for Paul Clay, which is the pseudonym for Jon Epstein.

At this time I would like to introduce as Guild Exhibit No. 3 the work record and dues records for

Jon Epstein.

MR. HOLTZMAN: May we have a moment, Mr. Chairman.

MR. KNOPF: Certainly.

(Brief recess.)

MR. KNOPF: We are back in session, and we will ask you to drive on.

MR. HOLTZMAN: I believe Mr. Mendonsa has offered into evidence Guild Exhibits 1, 2, and 3, and there has been no ruling thereon. Having had the opportunity to examine these, we have no objection to the introduction of these documents in evidence. Nor do we feel that it is necessary to obtain explanatory testimony concerning No. 3.

MR. MENDONSA: I would also ask at this time that we incorporate in the record the Rules for the Conduct of Members During a Strike dated February 20, 1973. And I think we already incorporated the Strike Orders and the Guild Constitution and By-Laws effective January 18, 1973.

(Brief interruption.)

MR. MENDONSA: I have nothing further.

MR. KNOPF: We are resting for one brief minute.

(Brief recess.)

MR. KNOPF: We will return to session, please.

MR. HOLTZMAN: Mr. Chairman, I understand there has now been incorporated by reference to the prior matters into the record of this proceeding the Constitution and By-Laws, the Rules for the Conduct of Members During a Strike dated February 20, 1973, and the two Strike Orders dated March 5 and April 11 of 1973, respectively. We have no objection

to this.

MR. MENDONSA: No objection.

MR. KNOPF: They are received.

MR. MENDONSA: The Guild rests at this time.

MR. KNOPF: Mr. Holtzman?

MR. HOLTZMAN: In order that we may proceed apace, I will simply move the Committee for the dismissal of the charges against Mr. Epstein, first, on all and each of the grounds asserted at the outset of the proceedings and, second, that the record lacks convincing evidence that Mr. Epstein at any time prior to April 14, 1973, the date of the charges against him, crossed a picket line at Universal City Studios or elsewhere.

MR. KNOPF: On behalf of the Committee, the motion is denied.

MR. SUSMAN: Mr. Shane.

MR. HOLTZMAN: Mr. Chairman, Mr. Susman will proceed with the evidence on behalf of Mr. Epstein.

MR. KNOPF: Thank you.

Mr. Susman.

ARNOLD SHANE,

called as a witness, was examined and testified as follows:

EXAMINATION

BY MR. SUSMAN:

Q. State your name for the record, please.

A. Arnold Shane.

Q And state where you are employed and the nature of your duties.

A I am employed at Universal City Studios by M.C.A. and Universal City Studios, Inc., as a business affairs executive.

Q Are you acquainted with Jon Epstein?

A Yes, I am.

Q And the nature of his activities?

A Yes.

Q And in the course of your duties you oversee the activities of Mr. Epstein?

A Yes, I do.

Q How long has Mr. Epstein been employed at Universal?

A He has currently been employed for a little over two years.

Q And what is the nature of his employment?

A As a producer.

Q Is he the line producer on "Owen Marshall"?

A Yes, he is.

Q And has he been so employed during the period he has been at Universal?

A Yes, he has.

Q Will you state what his activities as a line producer are?

A They entail the supervision of the --

MR. KNOPF: Off the record, please.

(Brief interruption.)

Q BY MR. SUSMAN: The question I asked you was about the activities of Mr. Epstein as a line producer.

A Yes. He basically supervises the functions of the personnel and facilities that go into the production of the series.

Q Did he also produce two 90-minute pilots for television this past season?

A Yes, he did.

Q And before he came to Universal was he a producer at Screen Gems?

A Yes, he was.

Q And while there did he produce series called "The Outcasts," "The Flying Nun," and "The Young Rebels"?

A Yes, to the best of my information.

Q And before that he produced "The Rat Patrol" for Mirisch; is that correct?

A Yes.

Q Now, in Mr. Epstein's capacity as producer, does he have the authority in the interest of his employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline the people working on the shows?

A Yes, he does.

Q Does he also have the responsibility to direct them or to adjust their grievances or effectively recommend such action?

A Yes.

Q And in so doing, does he use his independent judgment? He simply doesn't carry out the order of other

people, but makes his determination on his own; is that correct?

A. Yes, that is true.

Q. There are instances where he will talk to other people before he does something, but, nonetheless, he can go ahead and do it himself insofar as at least certain of the functions of the show are concerned, isn't that so?

A. Yes, that's correct.

Q. Does he supervise the activities of the cast?

A. Yes.

Q. And the writers?

A. Yes.

Q. Does he hire writers?

A. Yes, he does.

Q. Does he hire directors with or without director-producer approval?

A. Yes.

Q. Among his activities, does he also act as a liaison with the television networks?

A. Yes, he does.

Q. During the period that Mr. Epstein has been employed at Universal, has he done any writing?

A. No, he has not.

Q. I understand that Mr. Epstein is and for some time has been a member of the Producers Guild of America; is that right?

A. That is correct.

Q. There is no such entity known as Universal

Television, I-n-c., is there?

A. I know of no such entity.

MR. SUSMAN: No further questions.

EXAMINATION

BY MR. MENDONSA:

Q. Mr. Shane, there is an entity known as UTV; is that correct?

A. That is not a legal entity.

Q. Well, what is UTV, will you explain to us?

A. I believe it is a term that is sometimes used in reference to Universal Television, which is a division of Universal City Studios, Incorporated.

Q. Are you familiar with Mr. Epstein's personal service contract at Universal?

A. Yes, I negotiated it myself.

Q. You negotiated with Mr. Epstein?

A. With his agent.

Q. And does it give a right to Universal Studios to call upon Mr. Epstein to perform writing services?

A. Yes, it does.

Q. Do you review all of the work performed by Mr. Epstein?

A. Yes. I am one of several people who do.

Q. There are others besides you who also review his work?

A. Yes.

Q. Well, does all of his work get reviewed by you,

or is the review of that work shared by others?

A. I would become aware of all of the programs that he is involved in and working on and the work that he does on them.

Q. If he made a change in a script, would that come to your attention?

A. Yes.

Q. Any time he made a change in any script it would come to your attention?

A. If it's done in writing.

Q. But if he gave instructions to somebody else to make the changes, that would not necessarily come to your attention?

A. That is correct.

MR. MENDONSA: I have no further questions.

MR. KNOPF: Questions?

MR. BLANKFORT: Yes.

Mr. Shane, how can you explain that every change that he made in a script would come across your desk -- that is my first question -- since you are not in the creative line of command? You are in the business line of command.

THE WITNESS: Well, all the changes that are made in the scripts go through the mimeograph department and then are circulated. And I am one of the persons to whom all of the copies are circulated.

MR. BLANKFORT: Do you read everything that comes from the mimeograph department?

THE WITNESS: I don't read the entire contents of it,

but I see the cover.

MR. BLANKFORT: Is that part of your function to -- Let me put it this way. I am really trying to understand your function.

Do you make it your business to look at the cover of all of the stuff that comes from mimeograph? Is that part of your job?

THE WITNESS: Yes.

MR. BLANKFORT: In what way?

THE WITNESS: Well, part of my job is to be familiar with what is happening at Universal Television, the shows we are producing, and to keep track of any monetary credits that are earned by people with whom I have negotiated deals.

MR. BLANKFORT: I still confess myself puzzled. I can understand why in your capacity you would certainly want to see drafts, complete drafts or finished scripts because perhaps you would then have to send out credits, tentative credits, and so on. But I am puzzled why you feel it is your function or why it is the definition of your function to look at every change, whether it's half page, one page, three pages, that comes from mimeograph on all the scripts that are being done at Universal.

THE WITNESS: Well, all of the television scripts.

MR. BLANKFORT: Oh, television scripts.

THE WITNESS: Yes. Well, Mr. Epstein has a contract that earns him monetary credits for any function that he performs. If he produces a show, it's a credit of X dollars. If he writes a script -- which he has not done -- but if he

did write a script, that would be X dollars more. And if those credits add up to more than his weekly salary, I have to order the extra payment for him at the end of the year.

MR. BLANKFORT: One more question. Do you add up page rewrites?

THE WITNESS: Could you clarify the question. What do you mean by "page rewrites"?

MR. BLANKFORT: Well, if a producer, or in this case Mr. Epstein, who is functioning as a producer, were to rewrite a single page of script which he is producing, it would go through mimeograph, come out on a different color?

THE WITNESS: Yes.

MR. BLANKFORT: Do you accumulate these pages, let's say these single pages of rewrite?

THE WITNESS: No. They are all circulated to me. But if it is something less than a rewrite, I don't believe it would earn any credit for him, and I throw the pages away at that point. But just as a matter of the way the mimeograph department and the mail room function, they do not merely send me the things that Mr. Epstein would earn credits on; they send me everything.

MR. KNOPF: I have a couple of questions.

MR. SUSMAN: I have another question.

MR. KNOPF: Would you prefer first?

MR. SUSMAN: Yes.

Have you ever seen anything come across your desk written by Jon Epstein?

THE WITNESS: I have not.

MR. KNOPF: You are saying he is doing no writing?

THE WITNESS: That is correct.

MR. KNOPF: Does he have a story editor on "Owen Marhsall"?

THE WITNESS: On "Owen Marshall" he has had a story editor.

MR. KNOPF: He doesn't have one now?

THE WITNESS: At the moment I am not sure whether the story editor from last year is carried over or whether he may be on strike.

MR. KNOPF: You don't know whether his story editor is working currently with him at the studio?

THE WITNESS: No, I don't know.

MR. KNOPF: To the best of your knowledge is anyone doing any writing for him at the studio?

THE WITNESS: In connection with any particular project?

MR. KNOPF: Let's say "Owen Marshall."

THE WITNESS: To my knowledge there is no writing on "Owen Marshall" going on at the current time.

MR. KNOPF: What is he doing on "Owen Marshall" at this particular moment?

THE WITNESS: Undoubtedly performing some of the other functions of a producer.

MR. KNOPF: In other words, he is at the studio?

THE WITNESS: Today?

MR. KNOPF: You said he was performing duties on "Owen Marshall." I am asking if he is at the studio.

THE WITNESS: I can't testify that I know of my knowledge that he is there today.

MR. KNOPF: Has he been in the recent future -- the recent past?

THE WITNESS: Yes, he has.

MR. KNOPF: I see. Has he been paid?

THE WITNESS: Yes.

MR. KNOPF: To do what?

THE WITNESS: To produce.

MR. KNOPF: And currently he is not sitting around doing nothing?

THE WITNESS: He is not.

MR. KNOPF: Which would mean he is not helping the strike by sitting around doing nothing?

THE WITNESS: Are you asking for my opinion on that?

MR. KNOPF: I would ask your opinion on that.

THE WITNESS: Well, I don't know whether that would be helping or hurting the strike. I honestly can see various answers to that particular question.

MR. KNOPF: But he is there performing some services and being paid to do them?

THE WITNESS: Yes.

MR. KNOPF: Any other questions?

MR. POE: I have one.

Mr. Epstein, as a producer, as a line producer, makes occasional changes and cuts in scripts; is that true?

A. He has that authority. I don't believe he has exercised it.

MR. POE: Well, I mean taking a white page, making a change, sending it to mimeo, and you get a blue page.

THE WITNESS: I have never seen Mr. Epstein's name appearing on the blue page.

MR. POE: Does he ever change white pages to blue pages? That is to say, scene 600 is eliminated, that sort of thing?

THE WITNESS: He has the authority to do so.

MR. POE: He is a line producer?

THE WITNESS: Yes, he is.

MR. POE: And so he does do that?

THE WITNESS: I don't know whether he does it himself or whether he gives the instructions to his writers to do the things. But his name has not appeared as a participating writer on anything.

MR. POE: But blue pages come out of, let's say -- can we call it his unit?

THE WITNESS: Yes.

MR. POE: Blue pages come from his unit?

THE WITNESS: Yes, they do.

MR. POE: To the best of your knowledge, when did you last see a blue page from his unit?

THE WITNESS: In -- I believe in March.

MR. POE: Not in April?

THE WITNESS: I can't recall any -- any pages coming out in April.

MR. POE: Or May?

THE WITNESS: No, I don't recall any pages in May.

MR. POE: There have been no script changes from his unit since March?

THE WITNESS: There have been none circulated.

MR. POE: None circulated.

I have no other questions.

MR. MONASTER: If this hypothetical 600 -- scene 600 cut came through on a blue page, would you have any way of knowing who did that? Is every change that comes through initialed?

THE WITNESS: No, it is not initialed.

MR. MONASTER: Then you have no way of knowing who did it?

THE WITNESS: I only know whose name appears on the front page.

MR. MONASTER: Well, on the front page presumably appears the name of the original writer. How do you do changes? If the line is changed from "She walks to the French doors looking preoccupied," to "She walks to the French doors looking worried," if that change is made, do you have any idea who made it aside from the fact -- I don't recommend it as an original change -- but do you have any idea who makes those changes? I am trying to find the son-of-a-bitch who makes those changes. But you really don't know?

THE WITNESS: No. You might blame it on Mr. Epstein or you might blame it on a writer who takes it upon himself to do it or has received instructions from Mr. Epstein to do it.

MR. MONASTER: Then Mr. Epstein is the line producer

on "Owen Marshall," the same show that Mr. Victor is executive producer; is that correct?

THE WITNESS: Yes.

MR. MONASTER: So you have Mr. Victor and Mr. Epstein, who both have been at the studio for weeks and months, neither have written a word, both are getting weekly checks. And how do you get a job at Universal?

THE WITNESS: Are you just curious or offering?

MR. MONASTER: I am sorry. I was being nasty because, obviously, you have trouble as a witness. You work for the studios and you are saying the right things. And I am not accusing you of not telling the truth, but I don't envy you your rules.

MR. KNOPF: Any other questions?

MR. MENDONSA: I have a couple.

FURTHER EXAMINATION

BY MR. MENDONSA:

Q. Do you maintain regular office hours at the studio?

A. Yes, I do.

Q. What are those hours?

A. I am generally there from 9:15 or 9:30 until 7:00 in the evening.

Q. And do you know if Mr. Epstein maintains regular hours?

A. I don't know what his hours are.

MR. MENDONSA: I have no further questions.

MR. BLANKFORT: Just one minute.

Are you finished, sir?

MR. MENDONSA: Yes.

MR. BLANKFORT: No questions.

MR. MENDONSA: I wish to make one comment. There were questions asked of this witness with respect to the statutory indicia of supervisory status. I am not cross-examining the witness with respect to those questions. I urge that this Committee disregard those questions and not make any ruling with respect to whether or not this person is in fact a supervisor within the meaning of the National Labor Relations Act. That is a decision that can only be made by the National Labor Relations Board, and this body cannot make such a decision.

MR. POE: I have one more question.

MR. SUSMAN: Let me just, if I may, not in a question-and-answer form, but in response to the last statement made I think the converse should also be brought to the attention of this committee. And that is that people who occupy supervisorial capacities or claim at least to occupy should not be determined to be within the jurisdiction of this Board unless the National Labor Relations Board, before whom that very question is pending, so rules.

MR. KNOPF: It might be noted that Michael Franklin, Executive Director of the Writers Guild, has entered the room.

MR. HOLTZMAN: Mr. Chairman --

MR. POE: I have one more question of the witness.

MR. HOLTZMAN: May I respond to Mr. Mendonsa's comment?

MR. KNOPF: Please.

MR. HOLTZMAN: I would simply add to what Mr. Susman has said that inherent in any decision which this Committee might make one way or the other is necessarily a finding that Mr. Epstein either is or is not a supervisor, executive, or management representative. Therefore, it is our position, consistent with Mr. Mendonsa's statement, that this Committee cannot make any decision in this matter. And it was this that underlay our motion to dismiss.

MR. MENDONSA: May I respond.

This Committee is only being asked by the Guild to find whether or not this person Jon Epstein is a member of the Guild and whether or not he violated its strike orders and its strike rules. It is not being asked to decide whether this person is a supervisor within the meaning of the National Labor Relations Act. I have simply pointed out there is only one judicial body which has been authorized, and authorized by Congress, to make that decision. And that is the National Labor Relations Board. I am simply pointing out that by not cross-examining this witness with respect to the questions asked regarding statutory indicia, we are not acquiescing in the opinion or determination of the respondent that Jon Epstein is a supervisor. We do not want this record to be used in the National Labor Relations Board that the Guild has admitted that he is a supervisor. If they so wish to debate that, we wish then to do that before the National Labor Relations Board.

MR. KNOPF: Mr. Poe has a question.

MR. POE: You say that you are familiar with the script situation on "Owen Marshall." Approximately how many unproduced teleplays are there on "Owen Marshall" at the present time?

MR. HOLTZMAN: Mr. Chairman, I respectfully object to Mr. Poe's question. With all diffidence, it has no conceivable relevance to anything involved in this proceeding and can only be directed to matters relating to the strike, which are outside the scope of this proceeding.

MR. POE: To the contrary. I want to find out what Mr. Epstein is doing at Universal.

MR. HOLTZMAN: I would have no objection to that question. I think it should be directed to the first 14 days of April 1973. If you want to phrase the question that way, I won't object to it. But to inquire into the inventory of scripts is far beyond what is involved here.

MR. POE: Not at all. Mr. Epstein is a line producer.

As of the 14th of April, how many unproduced teleplays would you estimate there were on "Owen Marshall"?

MR. HOLTZMAN: Mr. Chairman,I object and request a ruling.

MR. KNOPF: I take the position never to countermand a question by anyone on this Committee. Anyone on this Committee that feels they have any question that is pertinent to these proceedings, in my opinion they may ask.

MR. HOLTZMAN: Mr. Shane, just one moment, please.

Mr. Shane, as counsel for the Respondent Von

Epstein, it is our position that you need not answer that question. You are not under oath. You are not under any process. I don't represent you and I don't represent your company and I am not ordering you or instructing you one way or the other. I would like to advise you that it is our position as counsel for the respondent that that question is so completely outside the scope of this proceeding and so transparently directed to matters bearing no legal or logical relationship to this proceeding that you do not have to answer the question.

MR. KNOPF: You have every right to direct your witness as you choose.

MR. HOLTZMAN: It is a third-party witness. I can only advise him. I have so advised him.

MR. POE: He has testified that Mr. Epstein, to the best of his knowledge, has not been making revisions on scripts.

MR. HOLTZMAN: Correct.

MR. POE: I am curious as to what the bulk of Mr. Epstein's untouched work consists of.

MR. HOLTZMAN: I will stand on my position.

MR. MENDONSA: He may still ask the question.

MR. KNOPF: The question can be asked and the question can be refused to be answered.

MR. MENDONSA: It is up to the Committee if it is to ask the question.

MR. KNOPF: The question has been asked.

MR. MENDONSA: I will ask for a ruling to the objection.

MR. SUSMAN: I don't think this Committee or any committee should go into the internal structure of the studios or anything else that does not bear on Mr. Epstein. This has nothing to do with Mr. Epstein being here charged with violating union rules.

MR. MONASTER: Our contention is that Mr. Epstein may have something to do with the number of scripts that change or don't change daily.

MR. POE: The charge specifically is he passed the line for the specific purpose of rendering services for Universal.

MR. HOLTZMAN: During April.

MR. POE: I have said as of April 14th how many unproduced screen plays were on Mr. Epstein's desk.

MR. HOLTZMAN: Object to the question on the ground it bears no relationship whatever to any matters before this Committee. I will advise Mr. Shane he need not answer the question.

MR. KNOPF: Mr. Poe, would you yield to Mr. Blankfort?

MR. POE: Surely.

MR. BLANKFORT: You described the activities of a line producer. What does a line producer do when there is nothing to produce?

THE WITNESS: When there is nothing to produce he collects his paycheck.

MR. BLANKFORT: Are you then saying that Mr. Epstein, during this period under discussion, has not done anything at all?

THE WITNESS: No.

MR. BLANKFORT: Well, what does he do if he isn't working on preparing scripts for production?

MR. HOLTZMAN: Object to that question on the ground that it assumes he prepares scripts. I think it's been clearly testified that he doesn't prepare scripts.

MR. BLANKFORT: I am talking about Mr. Shane's definition. He described what he does, and I want to know what he does.

MR. HOLTZMAN: I didn't hear him say "prepares scripts." And this has no bearing on the matters.

MR. BLANKFORT: I cannot, after some thirty-odd years in the business, accept the idea that a producer's function is other than to prepare scripts. He hires a writer. He talks over with a writer. He listens to the writer's ideas. He reads his first draft. He works that first draft over with him. That is -- what else? A producer may cast and may cut and preproduction and postproduction. But we are now in a period where the testimony seems to suggest that Mr. Epstein is not doing these things, all that a line producer has been defined as doing.

MR. HOLTZMAN: All I suggest, Mr. Blankfort, is that with respect to your specific question, which assumes that a line producer -- this particular line producer -- prepares scripts, I am suggesting that the testimony is to the contrary: that he supervises the conduct of others in this regard. I mean no more than that in my objection.

MR. KNOPF: Is he casting? Trying to get down to what his business may be at this time.

THE WITNESS: Yes.

MR. KNOPF: Is he looking for locations?

THE WITNESS: Yes.

MR. KNOPF: Is he assigning directors?

THE WITNESS: I believe he is.

MR. KNOPF: Has the crew been formed?

THE WITNESS: No.

MR. KNOPF: The crew has not been formed?

THE WITNESS: Are you talking about the below the line I.A.P., movies like that?

MR. KNOPF: Yes.

THE WITNESS: No, he doesn't.

MR. KNOPF: Is the show scheduled for production?

THE WITNESS: No.

MR. KNOPF: But you have been able to assign actors and look for location?

THE WITNESS: Yes.

MR. KNOPF: Signing actors without schedule? I haven't heard of that before. It's interesting.

THE WITNESS: Did you say "sign actors"?

MR. KNOPF: Assign actors to casting. How do you do that without having specific production dates?

THE WITNESS: Well, in the case of series players, continuing players.

MR. KNOPF: But they are set and have been set. That isn't casting. Those are holdovers from last year.

THE WITNESS: Well, there are some discussions of change going on.

MR. KNOPF: There is no preproduction preparation going on?

THE WITNESS: By a director?

MR. KNOPF: By Mr. Epstein.

THE WITNESS: Well, yes, there is. That is a rather broad term, "preproduction."

MR. KNOPF: Have these scripts been approved for production by the network?

THE WITNESS: As of my latest information, I don't know of any scripts that have been approved by the network.

MR. KNOPF: Have they been submitted to the network for approval?

THE WITNESS: Yes.

MR. KNOPF: And you have received nothing back from the network with regard to approval?

THE WITNESS: I don't believe so.

MR. KNOPF: How long ago were they submitted to the network?

THE WITNESS: Well, this is an ongoing thing that is spread over quite some time.

MR. KNOPF: No scripts have been submitted to the network and received approval or received comments from the network about, say, changes, for example?

THE WITNESS: Yes, there have been comments calling for changes in certain materials.

MR. KNOPF: You have seen those changes?

THE WITNESS: The comments or the changes?

MR. KNOPF: You have seen the requests for changes

from the network?

THE WITNESS: I have seen a couple.

MR. KNOPF: None have been incorporated in material?

THE WITNESS: I believe some of them have been incorporated.

MR. KNOPF: By whom?

THE WITNESS: Possibly by the writers that were on the scripts in the first place.

MR. KNOPF: You are saying it was all done before the strike? All of the scripts you have on "Owen Marshall," any network changes incorporated were done before the strike; is that correct?

MR. MONASTER: I think --

MR. HOLTZMAN: I think we are entitled --

MR. MONASTER: I think --

MR. HOLTZMAN: I think we are entitled --

THE WITNESS: Could I answer?

MR. KNOPF: Please.

THE WITNESS: I believe all the changes were done before the strike.

MR. KNOPF: All changes?

THE WITNESS: To my knowledge, yes.

MR. KNOPF: And all the requests for changes from the network, all scripts were submitted to the network before the strike and you received -- let me ask how many scripts were turned in to you just before the strike.

MR. HOLTZMAN: Mr. Chairman, I think we are getting into the area that concerned us a few minutes ago. I am trying to

sit here --

MR. KNOPF: We are in the area of credibility. Those of us who have worked for years --

MR. HOLTZMAN: We are weighing credibility. But I see no relevancy as to matters relating to the production company which bear no legal or logical relationship to this proceeding. And I think we are getting to the point where I must object to any further questions and advise the witness that they are so far divorced from the proceedings that he need not answer.

MR. KNOPF: I have asked the questions I wish to ask and gotten the answers.

MR. MONASTER: Forgetting about how many scripts on April 14 or May 5 or whether there is any variance, lesser or more, would you say that Mr. Epstein's presence at the studio in the period since March 5 has advanced one script one minute closer to production either by casting or cutting?

THE WITNESS: Yes.

MR. MONASTER: Then he has made a contribution to that script?

THE WITNESS: That -- I don't think -- Well, the question I don't think follows my last answer to the prior question.

MR. MONASTER: It follows beautifully.

THE WITNESS: Let me ask for a clarification.

MR. MONASTER: All right.

THE WITNESS: Is the casting of a guest star in a role a contribution to a script?

MR. MONASTER: Anything you do for that script which means that the script will be that much closer to production when the strike is over is a contribution.

THE WITNESS: Then I have to answer yes.

MR. MONASTER: You have to answer yes. And to that extent he has damaged the Guild's cause. Obviously our idea is to keep scripts from getting ready. So --

MR. HOLTZMAN: I take it that is a comment and not a question.

MR. MONASTER: Oh, sure, it's a comment.

MR. KNOPF: We have exhausted our questions here.

MR. SUSMAN: No further questions.

MR. HOLTZMAN: No further questions.

MR. MENDONSA: No further questions.

MR. KNOPF: Thank you very much.

MR. HOLTZMAN: Mr. Chairman, we have no further witnesses, and the defense in this matter now rests.

On behalf of Respondent Mr. Epstein we respectfully renew each and all of the motions which we have made at the outset of this proceeding and during the course of it on each and all of the grounds we stated. I won't reiterate the grounds therefor but nevertheless in such force as if they were made in detail.

MR. KNOPF: Respectfully, Mr. Holtzman, the Committee denies the request.

MR. HOLTZMAN: Mr. Chairman, the existence in the Epstein matter of a picket line on any particular day, and particularly on April 11, 1973, has not been proved. Indeed,

by the testimony of the witness that on 40 to 50 percent of the days during the period involved at least during some time in the day the gates were not marked poses upon the Guild the burden to prove at the time Mr. Epstein entered the premises, if indeed he did, a picket line was there and that he crossed it. There has been no proof of a picket line. There has been no direct evidence whatsoever and no significant circumstance or evidence that a picket line was crossed. There has been no proof that the entity referred to in the charges exists. There has been no proof that Mr. Epstein performed any services whatsoever of a writing character, and, indeed, the record suggests very strongly he did nothing productive other than perhaps to hire a guest actor or actress. I invite the attention of the tribunal particularly to the fact that this is a man who is not and does not consider himself to be a writer -- his last credit is in 1963. In recent years he has received nothing by way of revenue from writing other than residual payments relating to his earlier activities as a writer. We respectfully submit on each and all of the reasons that we have stated that the charges against Mr. Epstein have not been proved and are insupportable as a matter of law in any event and that the charges against him should be dismissed.

MR. KNOPF: Mr. Mendonsa?

MR. MENDONSA: I will not take much time. I think the record is clear Mr. Epstein is a member of this guild. He entered a struck premises. He performed services for a struck premise. And there is a great likelihood, although circumstantial evidence only has been offered, that he did

in fact cross the picket line. The evidence is only that on 10 to 12 different days there may have been short periods of time when one gate or another may not have been manned at Universal City Studios.

MR. KNOPF: The motion to dismiss is denied.

Do the parties wish to make closing arguments?

MR. MENDONSA: I think we just did.

MR. HOLTZMAN: I think we just did.

MR. KNOPF: I will make a short statement for the record.

This matter will be taken under submission by this Trial Committee. After this Committee has deliberated, we will submit a written recommendation as to guilt or innocence along with recommendations for action to the Board of Directors of the Guild, which has the right to accept, reject, or modify this recommendation. In order for the Committee to make a recommendation of guilt, it will require no less than four members. If more than one member votes for acquittal, the recommendation will be to acquit the respondent of the charges.

There being nothing further, this hearing is adjourned.

(The hearing was adjourned.)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, CAROL J. GERTZ, CSR, a Notary Public of the State of California, certify:

That the foregoing Transcript of Proceedings was had before me at the time and place therein set forth and was taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision.

That the foregoing 65 pages represents a full, true and correct record of said proceedings.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this 30 day of June, 1973.

Carol J. Gertz
Notary Public of the State of California

ORIGINAL

INTRAUNION DISCIPLINARY HEARING

In the Matter of	)
WRITERS GUILD OF AMERICA, WEST, INC.,	)
vs.	)
JOHN MICHAEL CRICHTON,	)
Respondent.	)

HEARING OF JOHN MICHAEL CRICHTON

Los Angeles, California

May 23, 1973

Reported by:

RUTH H. MILLER, CSR

COLEMAN, HAAS, MARTIN & SCHWAB
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LOS ANGELES, CALIFORNIA 90057
DU 1-3701

INTRAUNION DISCIPLINARY HEARING

In the Matter of	)
WRITERS GUILD OF AMERICA, WEST, INC.	)
vs.	)
JOHN MICHAEL CRICHTON,	)
Respondent.	)

INTRAUNION DISCIPLINARY HEARING OF JOHN MICHAEL CRICHTON, heard before a Trial Committee duly convened pursuant to Article X of the Constitution and By-Laws of the Writers Guild of America, West, Inc., at 8955 Beverly Boulevard, Los Angeles, California, commencing at 2:00 P.M., Wednesday, May 23, 1973, before Ruth H. Miller, CSR and Notary Public.

APPEARANCES:

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BEFORE:

CHRISTOPHER KNOPF, Chairman
JAMES POE
NATE MONASTER
MICHAEL BLANKFORT
EMMET LAVERY

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MR. KNOPF: The hearing will come to order.

This is a preliminary hearing in the matter of the Writers Guild of America, West, Incorporated versus John Michael Crichton. This matter is being heard before a trial committee duly convened pursuant to Article X of the Constitution and By-Laws of the Writers Guild of America, West, Incorporated. The members of the trial committee are James Poe, Nate Monaster, Michael Blankfort, Emmet Lavery, and myself, Christopher Knopf, Chairman.

Will the various attorneys state your names, please.

MR. MENDONSA: John A. Mendonsa, M-e-n-d-o-n-s-a, appearing on behalf of the Executive Director of the Writers Guild of America, West.

MR. HOLTZMAN: Appearing for the Respondent, Robert A. Holtzman of the law firm of Loeb and Loeb, also Mr. Saul Rittenburg and Mr. Ron Rosen.

MR. KNOPF: Are there any other appearances to be made in this matter?

These are closed hearings. If anyone is present who is not specifically connected with or called to testify in this matter, may I ask them to leave. There is one more gentleman present.

MR. HOLTZMAN: This gentleman will be a witness on behalf of Mr. Crichton. There is one more gentleman on the other side of the table.

MR. MENDONSA: There are two other gentlemen in the room. They are both witnesses also.

MR. KNOPF: I will introduce Trial Committee exhibits.

I have a copy of the charges and a cover letter sent by certified mail to Respondent on April 6, 1973, with a signed return receipt attached. I have marked these as Trial Committee's Exhibit No. 1. Is there any objection to receipt into evidence of Trial Committee's Exhibit No. 1?

MR. HOLTZMAN: No objection.

MR. KNOPF: There being no objection, it will be received.

I have marked as Trial Committee's Exhibit No. 2 a two-page letter requesting a continuance of the hearing dated April 23, 1973, addressed to John Mendonsa, signed by David Miller for Loeb and Loeb.

MR. HOLTZMAN: No objection.

MR. KNOPF: I have marked as Trial Committee's Exhibit No. 3 a one-page letter requesting a continuance of the hearing dated April 25, 1973, addressed to John Mendonsa and signed by David Miller for Loeb and Loeb.

MR. HOLTZMAN: No objection.

MR. KNOPF: I have also marked as Trial Committee's Exhibit No. 4 a two-page letter granting a continuance to May 23, 1973, dated April 27, 1973, addressed to David G. Miller, Esquire, Loeb and Loeb, signed by John Mendonsa, Resident Counsel, Writers Guild of America. Is there any objection to the receipt into evidence of Trial Committee Exhibits 2, 3, and 4?

MR. HOLTZMAN: No objection.

MR. KNOPF: So received.

May I hearing opening statements, if you wish to

make opening statements.

MR. HOLTZMAN: Mr. Chairman, before we proceed further and prior to the making of any opening statements, I would like to present certain motions on behalf of the Respondent and place certain objections to proceeding in the record. Since these motions and objections, if sustained or granted, would obviate the necessity for further proceedings, it would appear that they should be made prior to the making of any opening statements. In that regard I am cognizant of the conversations that took place yesterday between the Chairman and Mr. Smith, and I am prepared to proceed in the same manner as the proceedings yesterday.

MR. KNOPF: Mr. Holtzman, would you be kind enough to number them as you go through them.

MR. HOLTZMAN: Yes.

MR. KNOPF: Thank you very much.

MR. HOLTZMAN: All right. Mr. Chairman, I will simply state various motions or objections that I have to make and the grounds or reasons therefor. I am not going to argue any of these motions. In this regard, then, I would propose to adopt the arguments that were stated by Mr. Smith in the three hearings which have taken place yesterday and the day before. I believe each argument made in those previous hearings would be equally applicable here today.

I want to make it crystal clear that, by not repeating each argument at length, we do not mean to give lesser effect to any objection which I am going to state or to any ground of motion, nor do we advance any motion or

objection with any less sincerity because of our brevity.

I would propose to place before the committee the entire group of objections at one time and then ask for a ruling at the conclusion of the presentation unless it is the desire of the Board that we consider an act on each one separately.

MR. KNOPF: I would suggest that you read them all in order. I will ask Mr. Mendonsa if he wishes to respond to them individually.

MR. MENDONSA: I have no objection to the procedure and the incorporation of the records of the Albert Ruddy and David Victor cases in respect to the arguments as long as the arguments in opposition to the motions are also incorporated.

MR. HOLTZMAN: That would be entirely satisfactory.

MR. POE: Mr. Holtzman, will you number the objections as you make them.

MR. HOLTZMAN: Yes, sir. Mr. Smith supplied me this morning with the numbers that were assigned to the motions advanced yesterday and, so far as I can tell, I am following the numbering system right down the line. I believe there were some grounds asserted yesterday that would not be appropriate here because of the nature of this proceeding. I will indicate the deletions as I go along.

The first motion which we advanced is a motion to require the Guild and its Executive Director to present the charge against the Respondent in the form and substance required by the Constitution and By-Laws of the Guild and in

the form required by law. In this regard, Gentlemen, the Constitution and By-Laws are very specific. They require the Guild to furnish the Respondent with a copy of the charges as well as with notice of this hearing. Article X.B. Section 1 provides that charges may emanate from the Board or may emanate from any individual member, but in either event Section 5 gives the member the right to a copy of these charges as well as a right to notice. This was not done.

MR. KNOPF: Excuse me for interrupting, but that is an argument.

MR. HOLTZMAN: Sir --

MR. MENDONSA: It was stipulated that we were going to repeat the general objections and motions that were made in earlier cases. I simply want to remind you, for the purpose of saving time, to be aware of the fact that you are in this case, for example, arguing rather than stating the motions, and we would just again be repeating the arguments.

MR. HOLTZMAN: Sir, I am being very brief. I feel I am required to state both the objection and the grounds of objection. I do not intend to do anything more than to provide sufficient specificity so that it can be clear what we are objecting to and what our point is. I'm not going to go beyond that.

As I indicated, Section 5 of Article X. B. gives the member a right to a copy as well as a right to notice, this was not done, and in this sense the member is deprived

of the right to confront or to be advised of the witnesses against him, and it is our position that the Committee has no power to proceed under the Constitution of the Guild, since this has not been done.

Further I point out an additional ground for the same motion, that the Labor Management Reporting and Disclosure Act, and specifically Section 411.A.5 thereof again requires presentation of written charges. Our point is that the notice was not sufficient. The charges themselves must be supplied.

Motion No. 1.A., to conform to the numbering system adopted yesterday, is a related motion. The first motion was to compel a statement of the charges. This motion is to dismiss the charge on the ground that, absent a full, complete and specific statement, it is too vague and uncertain to be the subject of disciplinary proceedings. In this regard we have not gotten the charge itself, we have merely gotten a summary or recapitulation. It accuses the Respondent, among other things, of having crossed a picket line at a specific date and place for the purpose of rendering services to Metro-Goldwyn-Mayer, Inc. The services are nowhere specified. We don't know whether the gentleman is being accused of performing writing services, services other than of a writing character, services of an executive or supervisory character and, absent specificity on these points, the charges are too vague, uncertain, and ambiguous to permit this Board properly to proceed.

In this regard, Gentlemen, we cite the Constitution

and By-Laws of the Guild, which provide in Article X. B. Section 1 thereof that the charges shall specify as succinctly and explicitly, and I emphasize the word "explicitly," as possible the nature of the offense and the date and place of its occurrence. Section 101 of the Labor Management Reporting and Disclosure Act requires similar written specific charges. This not having been done, the motion is to dismiss on the ground the charges lack the requisite specificity under both the Constitution and statutory law.

The next ground of motion, which we will number as Motion 2, would not apply in the case of Mr. Crichton as it did in the proceedings yesterday and therefore, in our system, that number will simply be skipped.

The number next will be No. 3. This is a motion to require clarification of an underlying but not necessarily apparent ambiguity in the charge. To this extent it relates directly to the motions previously made. Our point here is this: The charge refers to crossing a picket line, as I said, for the purpose of rendering services. There is no specification of the type or class of services referred to; there is no indication whether these are services falling within the jurisdiction of this Guild or outside of its jurisdiction, whether the gentleman is accused of writing, directing, producing, or some other activity. We recognize, of course, that it appears to be the position of the Guild, insofar as this proceeding is concerned, that if the gentleman is a member, he is to be totally prohibited from

performing services, and that the purpose of this hearing is to test that question. On the other hand, in the National Labor Relations Board proceedings which are going on today and specifically in, for the record, Cases No. 31 CB 1203-2 and 31 CB 1223, in the answer to the charges filed by the Guild with respect to the threats of the very discipline involved in this particular proceeding, this Guild has taken the position that these threats were "directed solely to dissuade members from crossing picket lines to perform writing work." I emphasize "writing work" as defined in the recently expired collective bargaining agreement with the Association.

It is the Respondent's position that he is entitled to know whether we are talking about writing work as defined in that collective bargaining agreement or whether we are talking about any work. If it's any work, of course this raises a series of additional objections and motions. We suggest that there is a serious lack of candor in the position of the Guild in this matter. We suggest that the Guild should face up directly to the question whether or not it has jurisdiction and indicate in its charge whether we are dealing with a matter within the subject matter of jurisdiction or not. Absent a clear statement of position in this regard, the member is not being advised of the charges against him, he is not being given notice and an opportunity to defend; in other words, he is being deprived of substantive and due process of law.

The fourth ground of motion and the grounds which

will follow relate not to the charges but rather to the manner in which we are proceeding today. In this regard we note, as has already been indicated for the record, that the Guild is represented at this disciplinary hearing by Mr. Mendonsa, its counsel, and that Mr. Franklin, the Executive Director, is not present, does not appear to be presenting the charges on behalf of the Guild. To this extent these proceedings are not being conducted in accordance with the By-Laws and Constitution. Specifically Article X, subdivision B, Section 6, provides that the Executive Director shall present charges to the Committee. This relates in a sense to the constitutional right of confrontation and to be advised of the identity of the accuser, an element of due process of law. In this regard we state it is our position that this is not a delegable duty. There is no indication that we could find anywhere in the Constitution or By-Laws or elsewhere at law that a duty specifically imposed upon an individual by Constitution may be delegated, and the absence of the sole person vested with the authority to proceed deprives the Committee of jurisdiction to proceed in this absence.

The next ground is one which, in our estimation, is critical to these proceedings and to the jurisdiction or power of this Committee or, indeed, of the Guild to proceed this afternoon. We call it to your attention so that we can be sure that you are advised of the defect and that there is no question as to your willingness or desire to proceed, notwithstanding this matter having been brought

to your attention. We move, Gentlemen, to dismiss this proceeding on the grounds that the Guild has no jurisdiction to impose discipline or to threaten to impose discipline on any member when that member is acting in the capacity of an executive or in the capacity of a supervisor, as those terms are defined in the National Labor Relations Act. I think we need not close our eyes to the obvious. It is a fact of common knowledge that the Respondent in this proceeding is a motion picture director and that, at the time and place referred to in the charges, he was acting as such. I don't think there is any question that need be debated as to whether or not a motion picture director is an executive or a supervisor. The law in that regard is clear. The term "supervisor" is defined in the Act; it means any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or responsibly to direct them, and I underscore the words "or responsibly to direct them." What could better define the capacity of a director? Continuing with the statute, or to adjust their grievances or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature but rather requires the use of independent judgment.

This language seems tailor-made to the situation we face. We are dealing with a person who is exempted under the statute from discipline of this character, and the attempt by this Guild to proceed in the face of the statute

flaunts the authority of the labor laws of the United States and of the National Labor Relations Board.

Now, I'm not going to spell this out further. Mr. Smith pointed out on Monday the National Labor Relations Board decisions on this subject, he pointed out and quoted at length from the court decisions on the subject, and he pointed out and quoted at length from the opinion of special counsel for the Guild concerning this subject. I'm not going to repeat that, and again I want to emphasize the fact that my not belaboring the record does not mean that we treat these points any less emphatically today. We are very, very sincere and adamant in our position in this regard, and we feel that the law is so clear and unequivocal on the subject that there can be no dispute between reasonable men. The Board decisions, these court decisions are binding on the Guild. The Complaint which the National Labor Relations Board has issued against the Guild and which is being tried as we sit here today demonstrates the Board's position; so, Gentlemen, we put it to you, by proceeding as you hope to do you are flaunting the law, and this Committee does not have to permit this to happen. The fact that the Executive Director or the Board of the Guild desires this matter proceed is the opinion of an advocate and, of course, I am the advocate on the other side, but you gentlemen, the members of the Committee, are sitting not as advocate for either side but rather in a judicial capacity and, if you are satisfied that the law is as the courts have stated it, as the Board has stated it, as your counsel has stated it, it's

your prerogative, it's your responsibility to proceed in accordance with the law.

The sixth ground of motion is again related, we move, as I have indicated, we move to dismiss this matter for lack of jurisdiction. As an alternative to that, we move to continue this matter until the National Labor Relations Board has completed and ruled upon the proceedings pending before it with respect to this very subject matter. Manifestly it would be our position that if the administrative law judge rules in accordance with the Board's position as articulated in its Complaint, the matter should then be dismissed. Our motion is that the matter be postponed and that we not proceed further until the Board has had a chance to so rule.

Ground of motion No. 7, again, is a motion to dismiss on the ground that the Committee has no jurisdiction to discipline or attempt to discipline persons who are acting in fields of endeavor outside the scope of the Guild's representation. Manifestly this Guild is a certified exclusive bargaining agent for writers, no one else. If a man is working as a director, a producer, or an administrator, this Guild has no prerogative to extend its jurisdiction into these areas of endeavor. Now, it's a matter of common knowledge that Michael Crichton is working as a director or acting as such and was doing so on the day referred to in the charges, and it is our position that this Committee has no legal power to discipline or even to threaten to discipline him for acting as a director. It's our position

that the Committee should recognize this and dismiss the proceedings.

Ground No. 8 is one that I think I had better qualify before I state the motion itself. This relates to the composition of this panel, and by presenting this I certainly do not mean to impugn the honesty or integrity or independence of any member of the committee, nor do I want to suggest in any way that any member of this panel is lacking in any of these characteristics, nor do I suggest that any member of this panel is unqualified to serve in the capacity of a member of a committee such as this. What I allude to is the subconscious, unavoidable predilection toward one side or another in a controversy which inevitably results from interest in its outcome. Now, you gentlemen have devoted a substantial part of your professional careers to this Guild. Four of you, as I understand, are past presidents of the Guild, and the other a past president of a division of the Guild. You have served it with honor and distinction, you have occupied its highest positions of power, you have long been associated with its highest executive levels, and it follows that you are personally concerned, pesonally motivated, personally interested in the outcome of the Guild's position in the present strike.

As we indicated in our prior arguments, you must necessarily then be aware of the effect of the outcome of the disciplinary proceeding on the proceeding of the strike, the effect of an acquittal, the effect of a conviction. It would seem to us that, in a situation like

this, one must avoid not only interest or bias but even the appearance of interest or bias, and it simply seems unfair to you gentlemen and equally unfair to the Respondent, Mr. Crichton, that he be adjudged by a panel having an interest, a lifelong interest in the outcome of the strike and in the relationship of the outcome of this proceeding to the outcome of the strike. We therefore move that the panel disqualify itself on the ground that the history of the background, the career of each of the members of the panel as now constituted demonstrates an interest in the outcome of this proceeding inconsistent with the requirements of due process of law.

As additional support for this motion, I point out that the Guild itself recognized this possibility when it adopted its present Constitution and By-Laws, and I specifically refer to Article X. B., Section 4, which requires this Committee to be composed of members, none of whom is interested in the proceeding other than as a Guild member, our position being that a Guild executive, past or present, has an interest far more pervasive than that of a Guild member.

As point No. 9, we assert that any panel or committee composed of members of the Writers Guild of America, West, Inc., could not possibly be disinterested or unbiased and thereby capable of being independent at this time and under the present circumstances, and we do so on the ground that, during the pendency of the strike that is the present contest, no member perhaps even subconsciously

can be completely impartial in a situation such as this. It is our position that only a totally disinterested person, one having no stake in the strike, one having no stake in its outcome, could impartially sit in judgment of Mr. Crichton at the present time, and therefore the motion is that the Committee be constituted, if at all, only of persons who are not members interested in the outcome of the strike at the present time.

Again this is a ground which we believe could be alleviated by continuing the matter beyond the duration of the strike, and therefore this is an alternative motion either to dismiss or to postpone the matter until such time as the emotional climate necessarily inherent in the strike situation is no longer with us.

MR. KNOPF: What number was this, Mr. Holtzman?

MR. HOLTZMAN: That is No. 9.

Ground No. 10 asserted in the case of the Respondent, who is a motion picture producer, is not relevant to the proceeding, therefore there will be no ground of that number.

The last ground which we assert is a ground which, as a lawyer, I am most familiar with. It's something that comes up in almost any lawsuit or potential lawsuit of notoriety. We deal here in a situation where there has been extensive publicity in which the atmosphere is highly charged with emotion, where charges and countercharges are flaunted in the newspapers almost on a daily basis; I need not tell you gentlemen about the inflammatory articles which

have appeared and which I am sure all of us have read. These matters again were adverted to at length in prior hearings, and I am only going to refer to them rather than set them forth at length again. Our motion is to dismiss the proceeding on the ground that, in the atmosphere which has been generated by this type of publicity and inflammatory statements, it is not possible for the Respondent to get a fair trial, and therefore by proceeding at this time he is being deprived of due process of the law and equal protection of the law.

Again this is a ground which could be eliminated by delaying the proceeding to a point in time when the air is cleared, and therefore this is an alternative motion either to dismiss the proceeding or, in the alternative, to continue it to a date beyond the period where the emotional climate which I referred to exists.

Gentlemen, these motions are numerous, and I have referred to them only very, very quickly. Again I adopt and incorporate by reference the entire argument that took some three or three and a half hours the other day. It is our position that, for each and every one of the grounds which we have stated, each motion is valid as a separate motion, and each motion constitutes a complete dispositive ground for the dismissal or the continuing of this proceeding, as the case may be.

More important than that, I want to emphasize the cumulative effect of all these matters taken together. Consciously or subconsciously, for all the reasons I have

adverted to, Mr. Crichton cannot get a fair trial. I do not mean to impugn any member of the panel or the panel collectively by that statement. It is our statement, for the individual reasons and the cumulative effect of all of the reasons which we have stated, that this matter should not proceed.

Gentlemen, thank you.

MR. KNOPF: Thank you for your brevity, Mr. Holtzman.

Mr. Mendonsa?

MR. MENDONSA: Yes. I will be brief. I will stand on the argument in opposition to the motions in the prior hearings and incorporate it in this record, but there are a couple of comments I must make with respect to this particular case.

Motion 1.A. alleges that the charges are vague and indefinite in this particular cas The charges are somewhat different than in the prior cases. The charge is, in fact, very definite. It specifically charges Michael Crichton with having crossed a Guild picket line on March 6 and 7. It is not vague or indefinite. It also alleges him to have violated the strike rules for having rendered services to a company which appeared on the Guild strike list. It does not specify the type of services, but it makes no difference as far as this proceeding is concerned. Any type of services is sufficient for a violation of the rule.

With respect to the third motion, again it is the same objection, that the charges are ambiguous and indefinite because they do not state the type of services

that are being rendered, also because the Guild has filed in the National Labor Relations Board proceedings an answer which somehow or other renders the charges ambiguous and indefinite. I point out again that the charges are not vague, they specify a violation for having rendered services, and that is services of any kind. I will only point out that the Complaint, neither the Complaint nor the Answer to that Complaint in the National Labor Relations Board hearing was sent to the Respondent in this case, Michael Crichton.

Again I will point out that at no time prior to this date has any request for a clarification been made by Respondent or his representatives. As for a clarification, I think I have stated the clarification on the record. The charges stand today as they stood at the time they were served on April 6, 1973. There has been no denial of due process by having charges changed in any way, shape, or form.

MR. HOLTZMAN: I will respond to that only very briefly. The ground of uncertainty, ambiguity, or lack of clarity referred to in the motion I made at the outset related specifically, as I stated, to the failure to specify the type of services for Metro-Goldwyn-Mayer to which reference is made. A public record was thereafter created by the Guild giving notice to the public that the Guild was concerned only with services of a writing character for a struck company, and that ambiguity has not been resolved until Mr. Mendonsa's statement a moment ago. It is our position we are entitled to 15 days' notice, but we were not given

that 15 days' notice; more important, it is our position that, if that is the case, the Guild is attempting to involve itself in the prosecution of matters beyond its authority or jurisdiction, and we reassert all of our other motions based on that ground.

MR. MENDONSA: I will simply stand on the argument made in the prior case and will not respond any further.

With respect to the fifth motion made, counsel for Respondent referred to a statement which was introduced into the former hearings, at least one of the former hearings, a statement made by the Guild special counsel. I assume that he is referring to Mr. Charles Hackler, who was quoted in a strike notice which was sent to all members of the Guild, and I believe that's dated April 11, 1973. I will ask at this time that it be introduced into this record.

MR. HOLTZMAN: I'll not only agree to that, I'll join in the motion. Specifically, Gentlemen, the document referred to is a three-page memorandum dated April 9, 1973, subject "Strike and Discipline," bearing the legend "Attention" in very large letters at the top of the first page. The document sets forth as part of its substance a statement from Charles Hackler, Special Counsel to the Guild in the labor law field.

MR. MENDONSA: Excuse me. I don't think it's necessary to state what is in the document. All I am asking is that it be introduced into this record.

MR. HOLTZMAN: I am simply identifying it. Do we have a copy?

MR. MENDONSA: We don't have a copy. We can get copies run off.

MR. HOLTZMAN: May I suggest that then, for the record, copies have been introduced into the record of the prior proceeding, and, I believe, specifically into the David Victor proceeding. Rather than create exhaustive duplicate records, why don't we simply provide that the copy on file in connection with the David Victor case may also be deemed an exhibit by reference in the record of this matter as well.

MR. MENDONSA: I will agree to that.

MR. HOLTZMAN: This will then be --

MR. MENDONSA: It will be, then, Respondent's 1 if that's agreeable.

MR. KNOPF: That's acceptable.

MR. HOLTZMAN: As long as we're on the subject, Mr. Mendonsa, may we agree at this time that the Constitution and By-Laws and the strike rules also be placed into the record by reference?

MR. MENDONSA: I was going to suggest that also at this time, and also, if you will agree, to the acceptance of the strike orders.

MR. HOLTZMAN: I haven't seen the strike orders. I'd like a moment to examine that, if I may.

MR. KNOPF: May I suggest that, in a few minutes, we will probably recess for about five minutes for us to examine your motions, and perhaps you could see it at that time.

MR. HOLTZMAN: Very good. I'd appreciate that.

MR. KNOPF: Thank you.

MR. HOLTZMAN: Respondent's 1 by reference, then, is the April 9 memorandum. Respondent's 2 will be the Constitution and By-Laws.

MR. MENDONSA: I don't know that we have to identify these for an exhibit. We haven't in prior hearings. We can just incorporate them into the record. Again, as I stated before, they are more of the laws and the statutes of this Committee's operative --

MR. HOLTZMAN: Stipulated, then, that the Constitution and By-Laws of the Guild as adopted January of 1973 shall be deemed part of the record of this proceedings?

MR. MENDONSA: That is correct, and the strike order or the rules for conduct of members during a strike dated February 20, 1973, and all strike orders which were sent to the members prior to April 6, 1973. Of course I understand that you want to take a look at that before you agree that the latter portion of the strike orders --

MR. HOLTZMAN: Are we talking about one specific document, a general strike order?

MR. MENDONSA: There were several documents sent out to the membership from time to time that were strike orders.

MR. HOLTZMAN: I'd like to have an opportunity to examine those. Let's get the Constitution and By-Laws as part of the record by stipulation, the strike rules dated February 1 was that?

MR. MENDONSA: February 20.

MR. HOLTZMAN: -- February 20, 1973, and again these are not being assigned exhibit numbers, they are simply to be deemed a part of the record here, and after recess we can treat with the orders distributed to the membership.

MR. MENDONSA: Thank you. I have no further comments or remarks to make with respect to the motions.

MR. KNOPF: Mr. Holtzman, anything in rebuttal?

MR. HOLTZMAN: Not at this time.

MR. KNOPF: I'd like to recess for a very short period of time while we examine these motions.

(Recess taken.)

MR. KNOPF: We will return to the record, please.

We have examined your motions, Mr. Holtzman, to dismiss and/or continue, and they are denied.

MR. HAUGHTON: Mr. Chairman, may I, for purposes of the record, identify myself and my appearance. I am William B. Haughton, General Counsel for the Directors Guild of America, Inc., appearing on behalf of Michael Crichton, and I would like to apologize for being tardy, but I just was notified the hearing had been scheduled.

MR. KNOPF: Oh, well, thank you for your appearance. Have you been brought up-to-date with what's occurred so far?

MR. HAUGHTON: Briefly, yes.

MR. KNOPF: To your satisfaction?

MR. HAUGHTON: I could hardly answer that.

MR. KNOPF: That's sufficient.

Mr. Mendonsa, do you have an opening statement?

MR. MENDONSA: Well, I think we'll start with a motion

here. Let me move to amend the charge by eliminating the date March 7, 1973, and we will go from there.

MR. HOLTZMAN: You are restricting the charge, then, to the date March 6, 1973?

MR. MENDONSA: On or about March 6, 1973.

MR. HOLTZMAN: No objection.

MR. KNOPF: Do you have an opening statement?

MR. MENDONSA: Was that motion accepted?

MR. KNOPF: There being no objection, the motion is accepted.

MR. MENDONSA: We will simply show that, on or about March 6, 1973, Michael Crichton did cross a picket line going into Metro-Goldwyn-Mayer Studios, and thereby did violate Sections 12 and 13 of the rules for the conduct of members during a strike.

MR. KNOPF: Mr. Holtzman?

MR. HOLTZMAN: We will defer opening statement until the completion of the Guild case.

MR. KNOPF: Mr. Mendonsa, would you present the Guild case.

MR. MENDONSA: Yes. Call William Woodfield.

WILLIAM READ WOODFIELD,

not having been first duly sworn,

testified as follows:

EXAMINATION

BY MR. MENDONSA:

Q. Mr. Woodfield, will you please state and spell yur name for the record.

A. William Read Woodfield, Read, R-e-a-d, Woodfield, W-o-o-d-f-i-e-l-d.

Q. Mr. Woodfield, are you here at my request to testify here today?

A. Yes.

Q. And do you feel compelled to testify pursuant to the rules for conduct of members during a strike?

A. Yes.

Q. Are you a member of this Guild, the Writers Guild of America, West, Inc.?

A. Yes.

Q. And approximately how long have you been a member of this Guild?

A. About 10 years.

Q. Mr. Woodfield, you are aware that the Guild has been on strike against certain companies in the motion picture and television industries since March 6 of 1973, are you not?

A. Yes.

Q. Now, as a member of the Guild have you had occasion to picket for the Guild since March 6 of 1973?

A. Yes.

Q. And where have you performed such picketing duties?

A. At the studio that I work for, M-G-M.

Q. Now, directing your attention to March 6 of 1973, were you picketing at M-G-M on that date?

A. Yes.

Q. And approximately what time were you picketing?

A. From 6:00 A.M. to 9:00, which was the first shift.

Q. Were you picketing at a particular location at M-G-M?

A. The main gate.

Q. And do you know Mr. Michael Crichton?

A. Yes.

Q. And you are familiar with him when you see him?

A. I don't know him personally, but I know him by sight, because our offices were in the same bulding at M-G-M up until the day before the strike, as of March 5th, I suppose.

Q. Now, again directing your attention to March 6, 1973, during your picket duty between 6:00 and 9:00 A.M., did you have occasion to see Michael Crichton during that time?

A. He entered the studio at, by my watch, 7:07, which I noted at the time.

Q. And did he enter the studio at the main gate?

A. Yes.

Q. And was there in fact a picket line there at that time?

A. Yes.

Q. And he did cross the picket line?

A. He certainly drove past it, yes.

MR. MENDONSA: I have no further questions.

MR. KNOPF: Mr. Holtzman.

EXAMINATION

BY MR. HOLTZMAN:

Q. Just a couple of questions, Mr. Woodfield.

I understood Mr. Mendonsa to ask you, in the very last question, whether you observed Mr. Crichton to cross the picket line, and you responded he drove past it. Could you clarify that answer, please.

A. Well, I think crossing requires two points before you can cross it. I think that, as I recall it, the two pickets, there may have been three, were all on one side of the entrance of the studio, so he passed us as he entered the studio.

Q. Let me see if I can get a picture here. You were on picket duty at that time?

A. Yes.

Q. And were you on picket duty at the main gate?

A. Yes.

Q. And there was either one or two pickets on picket duty with you at that particular time?

A. There was another picket, and I believe the shift captain happened to be there, or he was passing by or something else.

Q. So there were three of you there at that time and place?

A. I believe three, but I am certain of two.

Q And you were all standing in a group together?

A Yes.

Q And where was that group situated?

A Precisely?

Q Precisely.

THE WITNESS: If you could help me, what is the name of the street?

MR. ELLISON: Madison.

THE WITNESS: Madison. It was on the -- west, it would be the northwest corner of Madison and whatever the street is that goes into M-G-M, which is a private street. The reason we weren't on the other side was that the funeral home was having a funeral, and they'd asked us to not stand in front of the funeral home.

Q BY MR. HOLTZMAN: And there is a gate to the studio in that area; is that correct?

A Well, there is a sentry box midway down the street in front of the Thalberg Building, and then the main gate of the studio is at the end of that private driveway or private street.

Q Can you describe where you were in relation to the sentry kiosk.

A Oh, half a block -- I am trying to think whether it would be east -- again, could you tell me if it's east -- half a block east.

Q And approximately where were you standing, that is, the three of you, in relationship to the intersection of Madison and the private street which leads into the studio?

A. If you have a drawing, I would be happy to identify it for you. When you say where was I standing, I was standing very close to the corner.

Q. Were you on Madison, or were you on the side street?

A. I was on the M-G-M street, private street.

Q. About how far from the corner?

A. Five, ten feet, five to ten feet.

Q. And the other two gentlemen?

A. We were there, right.

Q. Within a couple of feet?

A. Yeah. It was raining, and we were sort of under an umbrella.

Q. Just to be clear, there was no one on the other side of the private street at that time and place?

A. No. Not at that time.

Q. Was no one physically situated in the street itself?

A. No.

Q. It was raining pretty hard at that time, wasn't it?

A. Well, it was a miserable morning. Whether at that moment it was raining hard I can't answer, but it was raining badly, yes. It was wet and ugly.

Q. Do you recall what kind of automobile Mr. Crichton was driving?

A. Yes, a Mercedes-Benz exactly like mine, exactly the color, and I believe the same year. License No. 272 EXH,

which was not the car parked in his stall for the past weeks before the strike.

Q. Excuse me. Would you --

A. I said it was not the car parked in his stall, so I had some doubt that it was indeed Crichton when I saw it.

Q. Is it your testimony here now that you were able to observe someone sitting inside that car?

A. Oh, yes, and I was able to observe it was indeed Michael Crichton, and he subsequently passed me several other times after that while I was on picket duty in the same car. There was no doubt that it was --

Q. How long did you have an opportunity to observe him at that time?

A. He -- you mean how long in physical time?

Q. Between the time the car first approached, got into your area of vision, moved past you, and moved out of your area of vision.

A. Interestingly enough, the minute that --

Q. Just answer the question, sir.

A. All right. Well, the car circled the block before going in, so I saw him then, and then I saw him as he went through, so in time the first pass that he made at the gate would be, oh, 20 seconds. Well, let's say 10 seconds.

Q. 10 seconds overall?

A. No, then the second time as he went through, he went through very slowly, and I believe our eyes did meet, and I think I had at that time at least five seconds to

observe him.

MR. HOLTZMAN: Thank you. No further questions.

MR. KNOPF: Mr. Mendonsa?

EXAMINATION

BY MR. MENDONSA:

Q. You say he circled the block. Was that one or more than one time?

A. I can't -- I saw him one time pass the studio. We later got reports that he had to -- at that time all the gates, I understand it was the only time in the history of the strike at M-G-M that all the gates were manned. So we later got word that he had gone around to the other gate, did the same thing, and then finally decided, I suppose, he would go in the main gate.

Q. And how long a time was it from the time that you first observed him go around the block to the time he went through the main gate, approximately?

A. I would say, to the best of my recollection, five -- about five minutes. Perhaps a little longer than that.

Q. And had the pickets at the main gate, including yourself, been patrolling there at the main gate?

A. We were standing under an umbrella.

Q. You were standing in one place and had not been patrolling?

A. It is only fair to say that we were anticipating Michael Crichton crossing the picket line and were indeed alert to him crossing, because we had been told he was

going to cross the day before.

Q. And were you carrying picket signs at the time he went across?

A. Yes.

Q. Did those clearly identify that the Writers Guild of America was on strike?

A. That's exactly what it said.

MR. MENDONSA: I have no further questions.

EXAMINATION

BY MR. HOLTZMAN:

Q. To get one thing out of the way, sir, I am trying to get this picture, Mr. Woodfield.

We have the three of you huddling under an umbrella --

A. I think there were three under the umbrella. I'm not completely certain.

Q. I take it you were holding the umbrella in one hand --

A. Correct, over myself.

Q. And it was open over your head?

A. Yes.

Q. One of the other gentlemen also had an umbrella?

A. I think so, yes.

Q. It was open also?

A. Yes.

Q. And you were in a small group, and I take it you were talking to each other at the time?

A. Yes.

Q. Where were the picket signs?

A. The picket signs were like that, I mean that's the situation (indicating).

MR. HOLTZMAN: For the record, the witness is holding both hands up at about shoulder level.

THE WITNESS: Yes.

Q. BY MR. HOLTZMAN: I take it, then, it's your statement that you had the umbrella in one hand and the picket sign in the other hand, and they were both up over your head?

A. Yes.

Q. Is that correct?

A. Yes. Well, the pole was, of course, in my hand, and the sign was resting on my shoulder facing perpendicular to my shoulder.

Q. And the umbrella was open over the sign?

A. No, the sign was angled over, and the umbrella was straight up.

Q. How long was the pole, approximately?

MR. KNOPF: I didn't hear the question.

THE WITNESS: How long was the pole. The pole, three feet.

Q. BY MR. HOLTZMAN: How large was the sign?

A. The sign was -- let me think. I think probably the sign was two feet, 18 inches, something like that, by probably a little bigger than that.

Q. Were you carrying an ordinary black man's umbrella?

A. Yes.

Q. And it was open?

A. Yes.

MR. HOLTZMAN: I have no further questions.

MR. BLANKFORT: Mr. Woodfield, I understand the need for all these questions about exactly what corner and how many seconds and at what angle you were holding the sign, but I would like to have you answer one way or another, are you convinced in your mind that you saw Mr. Crichton enter the studio that morning?

THE WITNESS: There is not the slightest question in my mind that it was Michael Crichton.

MR. BLANKFORT: Is there a question in your mind at all whether he entered the studio?

THE WITNESS: There is not the slightest question at all that he entered the studio, because after he passed us, as I say, it was very slow, he then accelerated and speeded down to the end of the street. There is no way out from the street except into the studio. There is no question.

MR. KNOPF: I'd like to ask a question.

Did he see you or the pickets?

THE WITNESS: Our eyes, as I said, I thought that our eyes met. We have not spoken, but sharing or being in the same building, having offices in the same building, we have passed many times in halls and entering and leaving the building. Whether there was any recognition on his part I don't know, but I do know that he looked enough so that I have a distinct impression that our eyes met.

MR. KNOPF: Were the signs visible to the driver driving in and out of the studio?

THE WITNESS: Oh, yes, because a lot of people made comments about them.

MR. KNOPF: Is there any doubt in your mind either way as to whether he did or did not see your signs?

THE WITNESS: I can't tell you -- the only doubt would be if his eyes are bad or -- which I have no way of knowing. I have never seen him wear glasses. I don't know what his visual acuity is.

MR. KNOPF: But the signs were --

THE WITNESS: The signs were visible, indeed, absolutely unquestionably visible, and his afterreaction in accelerating, in light of their being a sign that says, "Slow, 5 miles an hour," and accelerating at about that sign indicates to me that he had made a decision and then said, "To hell with it," and went on, but that's indeed just an impression.

MR. KNOPF: Any questions?

MR. MENDONSA: I have a couple more.

EXAMINATION

BY MR. MENDONSA:

Q. Besides yourself, were other pickets carrying signs?

A. Yes.

Q. Were all of the other pickets carrying signs?

A. At least one other.

Q. At that particular gate?

A. Yes.

Q. And were the other pickets at other gates carrying signs?

A. Yes.

Q. And can you give us a brief description of what the signs looked like, color?

A. It was a Day-Glo red or orange that said -- I don't remember, either black or white and black letters, "Writers Guild On Strike."

Q. In large-size letters that could be read?

A. "Writers Guild" on the top, I think it was, "Writers Guild," may have been "Writers Guild of America On Strike." I think it was "Writers Guild of America On Strike" in five lines. It's funny, you carry them, but you don't look at them.

MR. MENDONSA: Nothing further.

MR. KNOPF: Anything further, Mr. Holtzman?

MR. HOLTZMAN: Just one question.

EXAMINATION

BY MR. HOLTZMAN:

Q. Mr. Woodfield, you stated a moment ago that you were on the alert for Mr. Crichton, you were watching for him because of something that had been said to you previously.

A. Yes, sir.

Q. Can you tell us who it was that had alerted you to this possibility.

A. Harris Kettleman, head of -- I think vice president in charge of television at M-G-M, in the presence of my partner, in the presence of my partner, Albert Walter, who is a member of this Guild, and Barry Lowen, who is in program development at M-G-M -- I can't turn this into a sentence, but we were all having lunch on the 5th, and we were discussing the impending strike and expressing our feelings about the strike, and in the course of the conversation Harris Kettleman had said that he felt that the Writers Guild could not maintain the strike and that many people had already committed to write scripts for that studio, for him and for the studio, and that many people were going to come in and work, and I said I didn't think any member of the Writers Guild would indeed come in and do that, and he said that Michael Crichton was indeed coming in the next morning to start a picture, his first day.

I said I couldn't conceive of that happening. I said that Crichton was a man that indeed was a writer primarily, he was a man of enormous talent, and it seemed to me there would be no financial pressure that could be exerted on him to make him do such a thing, and my partner and I went back to our office, and we discussed whether we should go and talk to Michael Crichton about this and urge him not to do it if he indeed was going to do it, and then we concluded that it was an attempt to frighten us and that it would be an insult to go to a man of the standing of Michael Crichton and even assume that he would do it, so we did not do it, for which I must say I am now sorry.

Q. So the gist of the statement, then, is that Kettleman said to you, in the presence of these others, "Mr. Crichton will be present tomorrow to start a picture"; is that correct, were those his words?

A. Those are not the words.

Q. Is that the substance of what he said?

A. The substance is that, I would say he didn't say it, it was more of a boast, if you want to characterize it, but he did indeed make such a statement.

Q. Did he say what he meant by "to start a picture" or words to that effect?

A. He said that they are starting a movie, he will be starting his picture tomorrow morning.

Q. By that do you mean starting photography on a picture or starting the writing process of a picture or what?

A. We didn't discuss what Michael Crichton would be doing. The expression, when you start a picture, it's understood in this industry what that means.

Q. And it means to start the principal photography, does it not?

A. Yes.

Q. And is it a fact that the principal photography on the motion picture "Westworld" was starting the following morning?

A. I believe it was, yes.

Q. And Michael Crichton was directing?

A. The name "Westworld" was not mentioned in any discussion.

Q. You know of it?

A. I later discovered it was indeed a picture called "Westworld."

Q. And Michael Crichton is the director of that picture?

A. He is also the writer, yes.

Q. I just want to make sure the state of the record is clear. Michael Crichton is the director of the motion picture "Westworld," is he not?

A. I don't know.

Q. And principal photography on the picture started under the direction of the director, whoever he may have been, on the day following your luncheon?

A. I don't know, sir. I was not in the studio and was not aware of -- I don't know whether the -- I did not follow up what precisely Michael Crichton went in to do. I did not follow the start date of "Westworld." I had no future discussion on this point with anyone at M-G-M and, indeed, I didn't check on the start date of any pictures. Whether they started that morning I don't know, is what I am saying.

MR. HOLTZMAN: No further questions.

MR. KNOPF: Mr. Monaster?

MR. MONASTER: Mr. Woodfield, you testified that you had an office at M-G-M?

THE WITNESS: Yes.

MR. MONASTER: You have a contract with M-G-M?

THE WITNESS: Yes.

MR. MONASTER: Is it for writing and producing?

THE WITNESS: Writing and producing.

MR. MONASTER: And you left M-G-M on March 5th, that was your last day?

THE WITNESS: Yes.

MR. MONASTER: And I don't want to be calling your -- you will have to forgive me for asking the question, we are certain of your answer, but you haven't returned since then, have you?

THE WITNESS: We went in -- my partner and I went in with a pass yesterday to get some things out of our desk.

MR. MONASTER: Other than that?

THE WITNESS: No, not at any time. Except to picket.

MR. KNOPF: Did you call the Guild and ask for permission?

THE WITNESS: Yes, yesterday.

MR. KNOPF: Do you have a desk at M-G-M, you said?

THE WITNESS: Yes.

MR. KNOPF: And yet you have not gone to work at M-G-M since the strike started?

THE WITNESS: That's true.

MR. KNOPF: Thank you.

MR. LAVERY: I have a question of Mr. Holtzman. We h[illegible] today, as before, enjoyed a wide latitude of questioning even in areas which might seem obvious to us who are acquainted with the film industry, and I tried to follow most of your questions very closely. Maybe I am jumping to an inference, but is it your ultimate position

that perhaps it really wasn't Michael Crichton who crossed the line and went into M-G-M that day? I mean you devoted 20 or 30 questions in great detail, and I thought, well, was the ultimate meaning that it really wasn't, in your opinion, Michael Crichton?

MR. HOLTZMAN: Mr. Lavery, I really don't feel that I should have to answer the question. We are in an adversary proceeding --

MR. LAVERY: All right. I pointed out that, while we tried to abide by reasonable laws, it's also a flexible proceeding in one sense of the word, it's not a juridical proceeding, it's a fact-finding procedure, and we are trying to find out what the facts were, and I wondered about the ultimate purpose of all those questions, and I thought, is it possible that Mike's theory is that it wasn't Michael Crichton?

THE WITNESS: May I make one statement? I haven't been asked the question, perhaps because your counsel doesn't know about it. I am certain that it was not Michael Crichton's brother, who does bear some resemblance to Michael Crichton, and who I have seen.

MR. LAVERY: Thank you.

MR. POE: I'd like to point out that we only have 47 minutes left before a member of the Committee must leave at 4:30.

MR. KNOPF: Are there any further questions?

MR. MENDONSA: I don't have any.

MR. KNOPF: Mr. Woodfield, thank you very much. We are

asking witnesses, once they have testified, to leave if they would be so kind. Thank you.

THE WITNESS: My pleasure.

MR. HOLTZMAN: Thank you.

MR. MENDONSA: We will call as our next witness Harlan Ellison.

HARLAN ELLISON,

not having been first duly sworn,

testified as follows:

EXAMINATION

BY MR. MENDONSA:

Q. Mr. Ellison, will you please state and spell your name for the record.

A. Harlan Ellison, H-a-r-l-a-n, E-l-l-i-s-o-n.

Q. Mr. Ellison, are you a member of the Writers Guild of America, West, Inc.?

A. I am.

Q. And approximately how long have you been a member of the Guild?

A. 12 or 13 years.

Q. Do you know Michael Crichton?

A. Yes, I do.

Q. And approximately how long have you known him?

A. I have known Michael four years, I believe.

Q. And what is the nature of your relationship, one of a personal friendship --

A. Yes. We are personal friends, not of blood tie relation, but we are good friends. He has been in my house on a number of occasions.

Q. All right. Now, let me direct your attention to March 6 of 1973. Did you, on that date, have occasion to have a conversation with Mr. Crichton?

A. I did.

Q. And was this a telephone conversation?

A. Yes, it was.

Q. And did he call you or did you call him?

A. I called him.

Q. Now, can you tell us the reason for your call, why did you call him?

A. At about 8:00 o'clock in the morning, I was called by someone from the Writers Guild strike headquarters. As I recall, it was Earl Hamner -- I could be wrong, but I believe at that hour I was not too wide awake -- who said that William Woodfield had called him and said that Michael Crichton had crossed the line at Metro that morning a few minutes after 7:00 and that, as I was a member of the board of directors of this Guild, they wanted me to get in touch with Michael Franklin, the Executive Director, and advise him of this, that as far as they knew it was the first recorded crossing by a member. I told them -- I told my caller, I believe it was Earl Hamner, that I knew Michael quite well and that I could not believe that he had done this and that I would try to call him myself.

I then called Metro-Goldwyn-Mayer --

Q Okay, proceed. And you called Metro-Goldwyn-Mayer. Did you speak with Mr. Crichton at that time?

A Yes, I did. I was first told that he was accepting no calls, and I then said, "Please pass the message to him that it is Harlan Ellison," and the call was relayed to the set of "Westworld," and when it reached the set of "Westworld," somebody answered and said, "Westworld," and I said, "This is Harlan Ellison, I would like to speak to Michael Crichton, please."

Someone said, "Just a moment," laid the phone down so that I could get a good -- I heard everything going on on the set, I heard grips working and electricians and everything, and a little time went by, and Michael came fairly close to the phone and was talking to someone on the set about setting up lights or something like that, a shot, they were talking about a lens to use in conjunction with certain lights, and then he picked up the phone, and we talked.

Q Did you recognize his voice as being that of Michael Crichton?

A Yes.

Q Will you tell us what you said to Crichton and what he said to you in that telephone conversation.

A I said that I was surprised to find out that he had crossed the line and that I was hoping he would come out quickly, that he had been observed going in, that Billy Woodfield had seen him, and a number of other people, and that I was upset, because Michael is a friend, and I did not want him to get in trouble with the Guild, and he told me that --

he gave me a number of reasons why he had crossed and why he was intending to stay and work on the picture. I can go into those if --

Q. Yes, please tell us what he said.

A. Well, the first reason was that he had been waiting a great many years to do this picture, and his words were, "I simply can't turn it down."

And the second reason was that he felt that he was not in contravention of Guild regs, regulations, because he was not writing and functioning in his capacity as a director solely, and he made a specific point of mentioning that Metro-Goldwyn-Mayer's executives had promised to indemnify him against any action by the Writers Guild.

The third reason that he gave me was somewhat more complex, and part of this is my impression, although it was quite clear to me at the time that this was one of the major reasons why he had not stayed out, why the decision to go in. He mentioned -- he spoke at some length, we talked for quite a while, we talked for about 15, 20 minutes, and it was clear to me that he had made a decision after considerable soul-searching and was not at all pleased about the circumstances, he said as much, but the thing that apparently had swayed him, and I guess this is in his defense; I'll tell you exactly what he said. He recounted to me a circumstance that had taken place several months before, I gathered, where he had been brought up on a Work Rule 8 hearing here at the Guild in front of the Work Rule 8 Committee, which is working for a non-signatory or struck producer, something

like that, and his feeling was that the matter was a technical one, which he said was borne out by the fact that he had been fined some miniscule amount, which I later found out was $25, suspended or not I don't recall, but it was not the hearing that disturbed him as much as the treatment that he had received at the hands of one of the Board's members, by name Randall MacDougall, and as he spoke about it he got livid, he was pissed off. He said he could understand having been brought up, you know, on it, and, you know, he was not upset about that, he said he had always been the strong Guild man, and that he would not have, you know, he would not have given it further thought had this not happened, but Mr. MacDougall apparently, to Mr. Crichton's way of thinking, treated him, in his words, like a child in front of a high school principal. He was, in fact, so annoyed by his treatment during that hearing that he said when he emerged from the meeting he swore to himself he would never work for anything over minimum so that he would never have to pay the Guild anything but minimum dues, and he said it as if he was absolutely furious at his treatment.

I said, "Nonetheless, you know, you are breaking the strike, and you really should come out at once."

And we talked about it at considerable length, and he said he would think about it, but he didn't think he was going to come out, and he wanted to direct the picture, wanted very much to direct the picture, and I said I would have to tell Michael Franklin, the Executive Director, and the strike committee of our conversation, and he said he

understood, and that was the sum total of our conversation.

Am I allowed to say something subsequent to this or --

Q. Is it another conversation you had with him?

A. No. Well, I did talk to Michael yesterday and informed him that I would be here, but apart from that I spoke to him again at the studio at Metro-Goldwyn-Mayer.

MR. MENDONSA: Well, I have no further questions of the witness.

MR. KNOPF: Mr. Holtzman?

EXAMINATION

BY MR. HOLTZMAN:

Q. Just one question, if I may, sir. In this conversation that you have related to us, and specifically in the enumeration of reasons that Mr. Crichton gave you for his decision to appear and work as a director on the set of "Westworld," did he indicate to you anything concerning instructions he had received from the Directors Guild of America concerning the performance of his director's contract?

A. Nothing whatsoever.

Q. Nothing said on that date?

A. The Directors Guild was never mentioned in the conversation.

MR. HOLTZMAN: Thank you.

MR. BLANKFORT: I have a question. Are you finished?

MR. HOLTZMAN: Yes, I am finished.

MR. BLANKFORT: I don't know Crichton, I mean except by sight. I may have talked with him five minutes or so in my life, but I do know something about directing and directors and the functions of directors, and would it be your impression from your relationship with Crichton that he was so conscientious about his work as a writer that, even while working as a director, he may have been, because of circumstances of acting, not being able to do the scene or the speech or the words, be forced by circumstances to do writing, as I have observed directors for some 20 or 30 years?

MR. HOLTZMAN: Mr. Blankfort, I would respectfully object to the question on the ground that it calls for the most extreme speculation on the part of the witness. It's an extreme example of asking about the character to prove the possibility of conduct. I realize we are not bound by the rules of evidence here, but I think it's unfair both to the committee and to the witness to ask him to speculate so remotely. I certainly would not object if the question were directed to specific conduct of this sort if the witness knows anything about the performance of writing at this time and place, but to speculate as to whether the character is such as might have is completely --

MR. BLANKFORT: I will be glad to, as you say, rephrase the question to Mr. Ellison.

MR. HOLTZMAN: I would appreciate it.

MR. BLANKFORT: Is it within the function of a director who is also a writer to rewrite script as he works?

THE WITNESS: I don't know, Michael. I have never been

a director. I can't --

MR. BLANKFORT: Have you ever worked with a director closely?

THE WITNESS: As close as I care to.

MR. BLANKFORT: Well, working with a director closely, after this shooting has been done, have you been asked to rewrite?

THE WITNESS: Yes. If I may answer the other part of that question which you asked, I know Michael Crichton to be a very honorable man. If he said he would not write, he would not write. I don't know whether circumstances on a set would force him to write, I have no way of knowing. That's really conjectural, but he's a good man and, if he said he wouldn't, I would take his word for it, but again I have never been a director; I don't know what circumstances would force him to do.

MR. BLANKFORT: Okay.

MR. KNOPF: Jim?

MR. POE: In the course of your friendship, has he ever referred to directing as an extension of writing?

THE WITNESS: No. Michael and I have never really had that many discussions about his directing, only about his writing, because that's where we first got to know each other, and I had the feeling that he was growing away from writing, that he was looking toward directing as a more permanent thing. That is my impression, but again it's just clearly an impression.

MR. KNOPF: I got the impression a few minutes ago

there were other things you wanted to say, and I would like at this time to give you an opportunity to say them.

THE WITNESS: Yes. Well, I --

MR. HOLTZMAN: I'll object to the witness --

MR. KNOPF: Let me say, Mr. Holtzman, first this is a very informal atmosphere and hearing, and the rules are pretty much what you want to make them.

THE WITNESS: Well, I really feel compelled to say this because I make no -- I make no case for anybody to cross a strike line. If he crosses a strike line, you know, it's the Guild's job to take care of it. It is my feeling, and it's supported by having talked to Lorenzo Semple, Jr., who was on the Rule 8 Committee, Lorenzo said to me -- I don't know whether I should use anybody's else words -- but he said he was very offended by the whole thing. He was offended by Randy's behavior and by what they did to Michael. It is my feeling that Michael Crichton might well have crossed that line in any case, I think he was hungry to do that film from talking to him, but, by God, he might have been able to hold out had not that happened to him, and in the way of an extenuating circumstance I offer it. I don't want to defile my Guild, and I don't want to load the gun in any other way, but I think it needs to be said in the man's defense. That's all.

MR. KNOPF: It's funny, my memory of that meeting is quite different. That's not important here.

Any other questions, Mr. Holtzman?

MR. HOLTZMAN: No further questions.

MR. MENDONSA: I have nothing further.

MR. KNOPF: Thank you. Thank you very much, Harlan.

MR. POE: One question. Just to make sure I have it clear, I gather Crichton's script was finished before the strike commenced?

THE WITNESS: I don't know.

MR. POE: If it were finished before the strike commenced, do you think he could direct the picture without making changes on the set, in your opinion?

THE WITNESS: I can't answer. I have never been a director, Jim.

MR. KNOPF: Thanks very much.

We'll recess for one moment. One of our people has to make a phone call.

(Recess taken.)

MR. KNOPF: We will return to session, please.

Mr. Mendonsa.

MR. MENDONSA: We call as our next witness Geri Preciado.

GERI PRECIADO,

not having been first duly sworn,

testified as follows:

EXAMINATION

BY MR. MENDONSA:

Q. Will you please state and spell your name for the record.

A. Geri Preciado, P-r-e-c-i-a-d-o, G-e-r-i.

Q. Miss Preciado, are you presently employed by the Writers Guild of America, West, Inc.?

A. Yes, I am.

Q. And what is your capacity with the Guild?

A. I am assistant membership secretary.

Q. And approximately how long have you held that position?

A. Seven years.

Q. And would you give us a brief description of your duties in that position.

A. I am in charge of the accounts receivable here, I record all the dues, record the employment contracts, and take in all the money and apply it to each individual contract at the -- I apply all the dues to the contracts that the members report on their dues statements.

MR. MENDONSA: If we may mark as Guild's Exhibit 1 a two-page document which purports to be a card with certain entries on it, in the upper left-hand corner "aka John Lange," L-a-n-g-e, and "Jeffery," J-e-f-f-e-r-y, "Hudson," and in the upper right-hand corner, "Crichton, John Michael."

I think we can get a stipulation that these are records kept in the normal course of business of the Writers Guild of America.

MR. HOLTZMAN: We will so stipulate.

MR. MENDONSA: And with that I will offer them in as Guild's Exhibit 1.

MR. HOLTZMAN: They may be entered as Exhibit 1.

Q. BY MR. MENDONSA: Miss Preciado, I show you Guild

Exhibit 1, and will you tell us what that is, please, what this card represents.

A. This is the member dues record, and the front of the card has all the total payments and the gross earnings. The back of the card has each individual contract and how much the member paid dues on it.

Q. Now, when you refer to his earnings, are you referring to his earnings as a writer?

A. As a writer only.

Q. And his contracts of employment would be contracts of employment as writer only?

A. For writing only.

Q. And does the Guild normally receive the actual or copies of the contracts that are entered into between the writer and the company?

A. Yes.

Q. All right. May I direct your attention to the first page, the front of the card, down toward the bottom, and in the very last column to the right there is an entry, "$3,375."

Will you tell us what that figure represents.

A. That was his total payment based upon his earnings of $337,500.

Q. And when were those earnings?

A. This was declared in the fourth quarter of '72 for earnings from Warner Brothers on behalf of $325,000 and an entry of $12,500 from ABC on behalf of Binary.

Q. You are reading on the second page at the top of

the page now?

A. Yes.

Q. Can you tell us this entry in the last column on the right of the $325,000, does that represent earnings as a writer?

A. This represents his earnings received as a writer.

Q. And for what period of time would that have been?

A. Well, this was from 3/27/70 through 8/4/72.

Q. And then the figure directly below that figure in the right-hand column, $12,500, what does that represent?

A. That is moneys he received from ABC for Binary, for which he got screen credit 5/72.

Q. And totaling those two figures, he then comes to a total of three hundred --

A. Dues were paid in the amount of $3,375 based on $337,500 in earnings.

Q. And looking at this, at Guild's Exhibit 1, can you tell us how long he has been a member of the Guild?

A. He has been ever since 7/69.

Q. And is he currently a member of the Guild?

A. Yes, he is.

Q. And what is his status as a Guild member?

A. He is a current member right now.

Q. And is he paid up in his dues?

A. Yes, he is.

Q. Now, directing your attention to the top of the page, page 1 of Guild Exhibit 1, in the upper left-hand corner I note the words "aka John Lange and Jeffery Hudson."

Will you tell us what that represents.

A. These are names, pseudonyms that he uses.

Q. Would those be pseudonyms that would have been registered with this Guild?

A. Yes.

Q. And other names under which he may write?

A. Yes.

Q. Now, directing your attention to page 2 of Guild Exhibit 1, the last entry written in pencil is "M-G-M Westworld," and further over on the right, "1/28/72." Would you tell us what that represents.

A. That was a work list date for something he has started which he has not paid down on yet.

Q. Would you explain to us what a work list is.

A. The work list is the list we get from the studios showing who is employed where, week ending, week started. We get them weekly. We are supposed to get them weekly.

Q. And would these reflect a person employed as a writer only?

A. Yes.

MR. MENDONSA: I have no further questions.

MR. KNOPF: Mr. Holtzman?

MR. HOLTZMAN: Yes, just a couple questions, if I may.

EXAMINATION

BY MR. HOLTZMAN:

Q. I'm not sure that I heard clearly or understood your testimony concerning some of these entries on the back

side of the work record, so if you have it in front of you and if you'd follow me.

The first listing, as I read this -- my copy is not terribly good -- appears to bear the word "Universal." Am I correct?

A. Yes.

Q. Am I correct that this is an employment sometime during 1969?

A. Yes.

Q. And am I also correct that there were no earnings derived from that employment?

A. This was employment prior to membership.

Q. I see. So no earnings were reported to the Guild?

A. That's right.

Q. And the next entry seems to bear the label "Warner Bros.," and the dates on my copy are illegible.

A. 3/27/70 to 4/3/70.

Q. That's March and April of 1970?

A. Yes.

Q. Can you determine from this the nature of the services he performed?

A. I can only tell you that it was a screenplay. It's a screen work.

Q. You don't know what the name of the picture was?

A. No. It came in untitled, and we have not been able to obtain a copy of the contract.

MR. POE: That's Warner Brothers?

THE WITNESS: Yes.

MR. POE: Would that be "The Terminal Man"?

THE WITNESS: I really don't know.

Q. BY MR. HOLTZMAN: Would your entry have been the same if this involved the sale of a novel for use as a screenplay rather than the writing of a screenplay itself?

A. Yes.

Q. And the next entry, ABC, and I can't read the word after that.

A. "Binary" is the title.

Q. Could you tell the nature of the services involved there?

A. There again it was strictly screen. I cannot say.

Q. Could it be the title of a novel?

A. Yes, I believe it was a novel basis. That's what the credits are.

Q. And then there is another entry for Warner Brothers in 1972 with no earnings reported?

A. No, that was included in the $325,000 that he declared. That was for all of those dates starting 3/27/70 through 8/4/72.

Q. How can you tell that from this record?

A. Because I picked up from the dues statement that we reported, and I have it listed on my record that the dues were included above.

Q. So no further earnings were reported in 1972 and no --

A. No.

Q. And then there is something that looks like

"Investigator Productions, 'The Investigator.'"

A. Yes.

Q. And again no moneys were received; is that correct?

A. That's right.

Q. Then you have this work listing for the M-G-M picture "Westworld." Could you tell me what that date is?

A. 1/29/72.

Q. So, if I understand your testimony, then, it would appear that Mr. Crichton has provided you with information concerning one screenplay prior to his Guild membership, one Warner Brothers screenplay which may have been a novel which he sold the screen rights to Warner Brothers --

A. Yes.

Q. -- and one story for ABC Television --

A. Yes.

Q. -- together with this "Investigator" matter and the "Westworld" matter in which no earnings have been reported?

A. Yes.

Q. And that's the sum total of your entire experience with his motion picture and television writing?

A. Yes.

MR. HOLTZMAN: Thank you.

EXAMINATION

BY MR. MENDONSA:

Q. Can you tell from this record when he paid his last dues?

A. The date he paid?

Q. Yes.

A. 1/26/73 he paid the $3,375. 4/20/73 was the last basic dues payment, that was the last payment he made.

MR. MENDONSA: I have no further questions.

EXAMINATION

BY MR. HOLTZMAN:

Q. That last payment was $10, was it not?

A. Yes.

EXAMINATION

BY MR. MENDONSA:

Q. I have one more question, Miss Preciado.

Do you know if a writer or a member of this Guild is compelled to pay dues for the selling of rights to a novel which has previously been published?

A. No, if it is previously published, then they do not have to pay dues on it.

Q. But if it's unpublished, then he would pay dues on the sale of that material?

A. Yes.

MR. KNOPF: Any questions, Mr. Holtzman?

MR. HOLTZMAN: No further questions, Mr. Chairman, thank you.

MR. KNOPF: Thank you very much for appearing.

Mr. Mendonsa?

MR. MENDONSA: Yes. At this time I would like to offer

into evidence as Guild Exhibit No. 2 the Guild's Writer's Credit Record for J. Michael Crichton. May we stipulate that this is a record kept in the normal course of business?

MR. HOLTZMAN: So stipulated.

MR. MENDONSA: I will offer it into evidence, and as Guild Exhibit No. 3 I would offer Guild Credit Record for John Lange, L-a-n-g-e, which is a pseudonym for Michael Crichton.

May we stipulate this is a record kept in the normal course of business?

MR. HOLTZMAN: So stipulated.

MR. MENDONSA: With that I will offer it into evidence.

I also at this time would like to offer into evidence a one-page document with the heading "Notice of Tentative Writing Credits" at the top of the page, and at the top in the right-hand corner a time stamp reading "Received June 25, 1971, W.G.A.W." The document is also dated June 24, 1972. It is signed in the lower right-hand corner by Richard Moyer, West Coast Story Editor, Warner Bros. Inc.

MR. HOLTZMAN: No objection. I simply want to point out that, on its face, it is a communication from Warner Brothers to the Writers Guild of America, West, Inc., to which Mr. Crichton is not party. There is no indication that he either sent, received, or received any copy of this document.

MR. KNOPF: Do you have copies of that?

MR. MENDONSA: Yes.

I will offer into evidence as Guild No. 5 a one-

page letter with a date stamp in the upper right-hand corner, "Received July 13, 1971, W.G.A.W.," addressed to Writer's Guild of America, West, Inc., Beverly Boulevard, Los Angeles, signed by Michael Crichton.

MR. HOLTZMAN: No objection.

MR. MENDONSA: That will be Guild No. 5.

May I have a moment to bring in one more witness?

MR. KNOPF: Please.

We're in recess again.

(Recess taken.)

MR. MENDONSA: I will offer the following stipulation: That Guild No. 4 is a document that, in the normal course of business, would be sent to all participating writers that are listed on the document as being writers.

MR. HOLTZMAN: So stipulated.

MR. MENDONSA: I call as the next witness Alan Griffiths.

ALAN GRIFFITHS,

not having been first duly sworn,

testified as follows:

EXAMINATION

BY MR. MENDONSA:

Q Will you please state and spell both names for the record.

A Alan, A-l-a-n, Griffiths, G-r-i-f-f-i-t-h-s.

Q Mr. Griffiths, you are presently employed by the Writers Guild of America, West, Inc.?

A. Yes.

Q. And what is your capacity?

A. I am Assistant Executive Director.

Q. And how long have you held that position?

A. Since September 1st, 1972.

Q. Now, Mr. Griffiths, in the current strike is it possible for a member of this Guild to obtain a pass to cross a picket line established at a struck premise?

A. It is.

Q. And how would one go about obtaining such a pass?

A. The member would apply to my office either by telephone or in writing.

Q. And if a pass was requested or granted, would you have a record of that in your office?

A. Yes, to the best of my knowledge we kept a copy of every pass that's been issued.

Q. At my direction did you check those records to see if a pass had ever been issued or requested by Michael Crichton?

A. I did.

Q. And did you find such a pass or such a record of a request?

A. There is no pass been issued to Michael Crichton.

Q. Or has there been a request for such a pass by Michael Crichton?

A. No request to my knowledge.

MR. MENDONSA: I have nothing further.

MR. HOLTZMAN: No questions.

May I have a moment, please.

EXAMINATION

BY MR. HOLTZMAN:

Q. Just one question if I may, sir.

Mr. Griffiths, on March 6, 1972, had Michael Crichton contacted you and requested a pass for the purpose of performing services as director of the motion picture, "Westworld," at M-G-M Studios, would you have been authorized to issue such a pass?

A. Not under the Guild's strike order and strike rules.

MR. HOLTZMAN: Thank you. No further questions.

MR. MENDONSA: Nothing further.

MR. KNOPF: Thank you for appearing here, Mr. Griffiths.

MR. MENDONSA: I have the copies of the strike orders that we offered at the beginning of this hearing to become a part of this record. I have given copies to counsel for the Respondent. I would now again offer those in as a part of this record.

MR. HOLTZMAN: For the record, I have been furnished with copies of the following documents:

A document entitled "Notice to All Members, Strike Order," dated March 5, 1973; a document entitled "Notice to All Members, Strike Order," dated March 15, 1973; a sort of a card bearing the title "News" and the date March 19, 1973; and a card bearing the title "Strike News" dated March 27, 1973.

Now, it's my understanding that counsel has represented that these are copies or counterparts of documents sent by mail to all members on the Guild roster on or about the date they bear, and based upon this representation I have no objection to the incorporation of these documents into the record by reference.

MR. MENDONSA: May they be received?

MR. KNOPF: They are received.

MR. HOLTZMAN: In that connection I think the record should indicate the fact that, except for the single document dated March 5, 1973, all of these bear dates subsequent to the date involved in the instant charge, which is March 6, 1973.

MR. MENDONSA: With that the Guild will rest.

MR. KNOPF: For the Respondent, Mr. Holtzman.

MR. HOLTZMAN: Yes.

Mr. Chairman, I am going to make a motion at this time for a determination by the Committee in favor of the Respondent, Michael Crichton. The basis of the motion will be each and all of the grounds which I asserted at the outset of this proceeding, it being our position that the evidence now demonstrates conclusively and without any contradiction whatsoever that Mr. Crichton has performed no duties other than duties of a motion picture director of a picture and principal photography on the date of the charges, March 6th, 1973.

I also base the motion on the ground that there was no clearly established or defined picket line at the

entrance to Metro-Goldwyn-Mayer Studios on the date and at the place in question in that the evidence again demonstrates without contradiction that the most an observer could have seen at that time and place was a small group of men huddled under umbrellas on a sidewalk beside the roadway or entrance not in any way presenting the establishment of a line, whether metaphysical or otherwise, across the street and, indeed, partially concealing their signs under umbrellas in a rainstorm.

There is no indication that the line was being walked, manned, or otherwise being held forth as an impediment to persons passing.

MR. MENDONSA: Are you finished making your --

MR. HOLTZMAN: That completes it.

MR. MENDONSA: May I respond.

I simply want to state that the allegations are that Michael Crichton violated the strike rules for having crossed a picket line and for having entered a struck premise. It relates not to the fact that he was going in to perform as a writer. He is a member of this Guild, it has been proven he has been a member of this Guild, he has therefore violated Sections XII and XIII by entering a struck premise. The fact that the evidence showed that, on the morning of March 6th, when he entered the studio, there were three pickets on a corner of an intersection of a street and the entrance to the studio certainly establishes that there was in fact a picket line. The fact that the picket line was not on both sides of the street is

ridiculous. It seems to me that any reasonable person, especially having gone around the entire studio, having observed picket lines and, I suspect, patrolling all around, would have realized that this place was a struck premise and that there was in fact a picket line around the entire studio.

Moreover, he has been charged with a violation of Section XII which, in its last sentence, says, "Should a member find it necessary to visit the premises of a struck producer for any reason apart from the foregoing, he should inform the Guild in advance of the nature of such prospective visit."

It has been shown here there was no indication given by him that he was going to enter a struck premise irrespective of the fact that there was no picket line, so I urge that the motion be denied.

MR. KNOPF: The motion -- excuse me.

We have a question.

MR. BLANKFORT: Mr. Holtzman, did I understand your contention and your motion that Mr. Crichton did not cross the picket line?

MR. HOLTZMAN: The contention in our motion is that it has not been proved that Mr. Crichton crossed a picket line. The charge, the specification of the charge, the only specification that we have to go on is that he has crossed a picket line. He is not charged, I should say there is no specification that he entered a struck premise, there is no specification that he didn't ask for a pass, the specification

is that, "You are charged with having crossed a picket line." All right. I don't think the evidence establishes a line. The evidence establishes a knot of men on the sidewalk beside a street.

MR. KNOPF: Mr. Holtzman, is it your contention he did not enter the studio?

MR. HOLTZMAN: The evidence demonstrates he was there during the day. Manifestly he entered.

MR. KNOPF: I see.

MR. HOLTZMAN: Unless he was there from the day before. From the probability of things, we can assume he came to work that morning rather than having stayed the night there. That is not the point. The point is that the Guild has placed upon it the burden of demonstrating an established picket line across that entrance. I don't think the evidence comes anywhere near establishing that.

MR. KNOPF: You are basing your request for dismissal upon the fact that, assessing this upon the testimony of Mr. Woodfield, it was not made clear that a picket line was established?

MR. HOLTZMAN: I will go the other way. I think the evidence demonstrated very conclusively that these gentlemen had not constituted themselves a picket line at that time and place.

MR. KNOPF: The Committee denies the motion for dismissal.

MR. HOLTZMAN: I do want to make it clear for the record, sir, that that is only an alternative ground for the

motion. The ground we asserted and do assert most strenuously is that the testimony further demonstrates without contradiction at all that the sole and exclusive purpose of the man's presence on the premises, the man's entry into the premises, was for the purpose of functioning as a director, and the evidence demonstrates affirmatively by his statements to Mr. Ellison that he was not performing writing duties and had no intention of performing writing duties.

MR. KNOPF: I think our immediate ruling is based upon Section 12 of the Strike Rules, which state all members are prohibited from crossing the picket line. That's the charge, and I think on that basis we must deny the motion.

MR. HOLTZMAN: Our position then is that this is beyond the jurisdiction of the Guild for the reasons previously stated and each and all of them.

MR. KNOPF: The rule to deny is passed. Would you continue for Respondent, Mr. Holtzman.

MR. HOLTZMAN: We will call Lindsley Parsons, Jr.

LINDSLEY PARSONS, JR.,
not having been first duly sworn,
testified as follows:

EXAMINATION

BY MR. HOLTZMAN:

Q Mr. Parsons, would you please take the seat across from the court reporter so we can all hear you.

Would you kindly state your full name for the record, and spell it, please.

A. My name is Lindsley Parsons, Jr. It is L-i-n-d-s-l-e-y P-a-r-s-o-n-s, J-r.

Q. By whom are you employed, Mr. Parsons, and in what capacity?

A. I am employed by Metro-Goldwyn-Mayer. My capacity is Vice President of Operations.

Q. And how long have you been so employed?

A. In this particular capacity, about five years.

Q. Would you recount for us, just very briefly, your background and experience in the motion picture industry.

A. I was born and raised in the industry. I became a member of the Film Editors Union upon graduation or upon leaving, I should say, UCLA and, with a motion picture course, entered the Film Editors Union in 1954, entered the Directors Guild as a Second Assistant Director, became a First Assistant Unit Manager, Production Manager, and work in my present position.

Q. Are you presently a member of any guild or other industry organization?

A. I am a member of the Directors Guild and also a member of the Film Editors Union.

Q. Would you please describe for us, in your own words, your present duties on behalf of Metro-Goldwyn-Mayer.

A. Present duties encompass operation of the facility itself, the production facility in Culver City, also the below-the-line elements or the nuts and bolts, as that is

fondly termed in this industry, regarding all of our feature and television productions. This involves supervision of schedules, budgets, and hiring of the proper personnel in the below-the-line areas.

Q. In the performance of duties that you have described, do you have occasion to become aware of the exact status of any motion picture project in projection?

A. On a daily, sometimes hourly basis.

Q. And how is information pertaining to the status of a production, let's say a feature motion picture production being filmed at the studio, how is such information made available to you personally?

A. A series of reports, the call sheets for the subsequent days' work, production reports for the prior day's work, progress reports showing our budget status on each of the projects, telephone calls from the set, and personal visits.

Q. With respect to the various types of reports which you have described, do these reports cross your desk?

A. They do.

Q. Do you review them?

A. Continually.

Q. You do so on a daily, even on an hourly basis; is that correct, sir?

A. Yes.

Q. In addition, I understand that you make it a practice to visit the sets in order to determine the status of productions in the course of photography?

A. On occasion, yes.

Q. Are you acqainted with the Respondent, Michael Crichton?

A. Yes, I am.

Q. Would you tell us how you come to be acquainted with him.

A. I first met Michael when we acquired the project "Westworld" and worked with Michael on the preparation of a schedule and a budget for that picture.

Q. What is "Westworld"?

A. "Westworld" is a feature motion picture which takes place in the future, it involves an entertainment complex that has a future world, a western world, period western world, and also a medieval world as part of this entertainment complex.

Q. Is this particular motion picture property a Metro-Goldwyn-Mayer production?

A. Yes, it is.

Q. And approximately what is the status of that production as of the present time?

A. We are currently in post-production editorial phase.

Q. And to your knowledge what is Mr. Crichton's connection with the production of the picture "Westworld"?

A. He is supervising the editorial process. He is preparing his director's cut.

Q. During the period of principal photography, was Mr. Crichton the director of the picture?

A. He was.

Q. In his capacity as a director, was he employed by Metro-Goldwyn-Mayer, Inc. as of March 6, 1973?

A. Yes, he was.

Q. Was Mr. Crichton also the writer of that property?

A. Yes, he was.

Q. Are you familiar with the status of the script of the motion picture "Westworld" as of, let's pick a date, March 5, the day before the day in question here, 1973?

A. Yes, I am.

Q. What was the status of the script as of that date?

A. The script, schedule, and budget were all completed.

Q. Incidentally, when did principal photography commence on the picture?

A. On Monday, March 5.

Q. 1973?

A. 1973.

Q. Have you, at my request, caused an examination to be made of the script of the motion picture "Westworld" to determine whether any changes were made in the script subsequent to March 5, 1973?

A. I have.

Q. And what was the result of that examination?

A. The latest changes in the script were dated March 5, which means that they were delivered to mimeograph on March 2 so that we could get them out on Monday the 5th.

Q. Did you have occasion to visit the set of the motion picture "Westworld" on Tuesday, March 6th, 1973?

A. I did.

Q. Did you make more than one visit to the set on that day?

A. I believe I stopped by there twice, stopped by in the morning, and I think I went by at noon.

Q. And did you observe what was then and there happening on the set?

A. Yes, I did.

Q. Was Michael Crichton there on the occasion of these two visits?

A. Yes, he was.

Q. Did you observe him in the performance of the work that he was doing at that time and place?

A. I did.

Q. And would you describe for us, in your own words, the type of work that Mr. Crichton was doing at that time and place.

A. He was performing the functions of a director as they are commonly known in the industry. He was choosing a camera setup in conjunction with a scene they had to go over, he was rehearsing his actors, he was supervising various phases of our preparation such as supervising the selecting of costumes, the set dressing, props, on one of those occasions I visited he was discussing future sets with an art director. Those are basically the areas at that time that I was down.

Q. To your knowledge did Mr. Crichton perform any writing duties for Metro-Goldwyn-Mayer, Inc. in connection

with the production "Westworld" on March 6, 1973?

A. We made no call on him to perform any writing duties after March 5.

MR. HOLTZMAN: No further questions, Mr. Chairman.

MR. KNOPF: Mr. Mendonsa?

MR. MENDONSA: Yes. I only have a couple.

EXAMINATION

BY MR. MENDONSA:

Q. Are you familiar with Mr. Crichton's personal service contract with M-G-M?

A. I am familiar with the fact that he had two, we prepared two contracts. I saw a deal memo where we prepared one as a writer and a subsequent one as a director.

Q. And do you know if those contracts have a provision in them that would require Mr. Crichton to perform writing services when requested?

A. The director's contract did not contain any such provision.

Q. Was there another contract other than the director's contract?

A. There was a writer's contract, as I mentioned, which called for the writing of the final screenplay, which we received prior to commencement of physical photography.

Q. He wrote the screenplay under the employment of M-G-M?

A. Yes, he did.

Q. You say, though, his director's contract does not

call for him to do any writing whatsoever?

A. It doesn't call for him to do any writing. A director, I think any director within the industry occasionally will change a line -- this is historical -- he will change a word if an actor has a problem stating a certain word or from a pronunciation standpoint. We did not call upon him, to my knowledge we didn't call upon him to do anything of that nature in this director's contract, but that's within the purview of a director.

Q. In fact, is it not customary to call upon a director to do more than just rewrite a line or so, sometimes he may rewrite a whole scene?

A. That wasn't the situation in that particular situation.

Q. But is that customary?

A. No, normally he might change a word here or a line there to accommodate a particular actor or to accommodate a particular situation, but we had a delivered screenplay, which we were satisfied with, prior.

Q. I'm not talking about specifically this, I am talking about in general, generally when a writer-director is hired to perform directing services, is there normally a provision in his contract that would give the company the right to call upon him to do more writing than simply changing a line?

MR. HOLTZMAN: Mr. Chairman, I deem it appropriate to object to this question. I can't see how what is normal or what is not normal has any bearing on this proceeding in view

of the witness' express testimony as to the coverage of that director's contract.

MR. KNOPF: I can't give you a legal response, I can only say I feel we gave you very great latitude with Mr. Woodfield, and we wish to do just the same for Mr. Mendonsa.

MR. HOLTZMAN: I feel this is completely unproductive.

MR. KNOPF: It may be.

MR. MENDONSA: May I just respond on it that I am concerned with whether or not he is hired as a director-writer, whether or not he performed his services as a writer.

MR. KNOPF: Let me say one thing. It's our hope to give both sides an opportunity to exhaust all and any questions which they feel are important to them. Whether that meets with the absolute code of courts of law I can't judge myself.

Q BY MR. MENDONSA: Would you answer the question, please.

A Would you rephrase the question, please.

Q Is it customary in this industry that, when a writer directs or is hired to direct, that there is inserted in his personal service contract a provision which gives the company the right to call upon him to perform writing services more than simply rewriting a line?

A Not to my knowledge. Normally we prepare two agreements, which we did in this particular instance, which was delivered on March 2 for publication. We did not, in his director's agreement, encumber it with any agreement for writing services. I watched dailies on this entire picture, and I don't have any recollection of him ever changing a

word in the script.

Q You testified that you checked the script to find out whether or not there were any changes in the script after March 5. Do you have a copy of that script?

A I had it checked. I returned mine to the script department upon completion of the principal photography, but I had the script checked.

Q You had it checked by somebody else?

A Yes.

Q You did not check it yourself?

MR. MENDONSA: I have no further questions.

(Recess taken.)

MR. KNOPF: Back in session, please.

May we have the witness, please, Mr. Parsons.

I have a question. You saw the final script, Mr. Parsons?

THE WITNESS: Yes, I did.

MR. KNOPF: And you saw the dailies?

THE WITNESS: I did.

MR. KNOPF: And Mr. Crichton is now developing his first cut?

THE WITNESS: Yes.

MR. KNOPF: Do you think that the final shooting script in that first cut can be made available to this Committee and that we could view that first cut and see the final script?

THE WITNESS: No, I can't answer that. That would really be up to Dan Melnick or Jim Aubrey, who is in charge

of the --

MR. HOLTZMAN: Yes, I should point out to the Committee that Mr. Parsons is here as a third party witness. He is not the Respondent, nor is he an officer or employee of the Respondent.

MR. KNOPF: He is the Vice President of Operations.

MR. HOLTZMAN: But M-G-M is not party to these proceedings. This Committee doesn't have subpoena power, and I really think it is unfair to ask a third --

MR. POE: It was testified by Mr. Ellison, who quoted Mr. Crichton as saying M-G-M just promised to indemnify him for any action by W.G.A.W.

MR. HOLTZMAN: That's Mr. Ellison's testimony. I heard him say it too. I don't know what logical bearing that has on it. M-G-M is still not a party to these proceedings. If there is any private arrangement between my client and M-G-M, I am not personally aware of it. I know nothing more than the testimony on that score that's been elicited here today. I think there is an element of unfairness. In asking a person who has come down as a witness, who is not a party to this proceeding, to commit his company or to even be asked to commit his company to an undertaking such as this.

MR. KNOPF: Could I ask you, Mr. Holtzman, to personally negotiate --

MR. HOLTZMAN: I'm not with M-G-M, either.

MR. MENDONSA: May I respond to that, because it seems to me that, although this is a third party witness, as that he still is not able to hide behind the fact he is a third

party witness. His credibility is within the realm of questioning of this Committee, and certainly if the Committee asks for a fact upon which he has testified, I think they are entitled to it. They certainly would have been entitled to actually see the script.

MR. KNOPF: Mr. Holtzman, may I ask you --

MR. HOLTZMAN: May we have a few minutes to recess and consult on that, off the record?

MR. KNOPF: Of course, off the record.

(Recess taken.)

MR. KNOPF: We'll return to session.

I believe you were going to reply, Mr. Holtzman.

MR. HOLTZMAN: Yes, Mr. Chairman. Having consulted on the question, we certainly don't want to create any inference or suggestion we're trying to hide behind anything; yet, at the same time, we don't want to deliver a commitment here when others are not in a position to perform our commitment. I will state this to the Committee: That we are prepared to consult with the representatives of M-G-M and to use our best efforts to attempt to make available the script and an intermediate cut of the picture for viewing as soon as it can be available.

Now, in fairness to the Committee, I should point out that Mr. Crichton is still in the process of preparing a first cut, and I don't know what the time schedule would be, nor do I know what M-G-M's response to our request will be. We will make that request, and we will make it in good faith and use our best efforts to obtain the requested opportunity

for the Committee.

I suppose I should suggest, in all fairness, that the Committee will have to obtain the appropriate passes in order to cross the picket line for the purpose of viewing the picture.

MR. KNOPF: May I ask to consult with my Committee outside for just one second, please.

(Recess taken.)

MR. KNOPF: Back on the record.

We would ask one thing, please, for reasons which I know you understand, complementing your reasons, in asking your questions of the studio tomorrow, we would like a copy of that script sent to me by certified mail first thing in the morning. I will not open it until you have a determination from the studio as to whether or not we may see the film, but we would like it in our possession as soon as possible, but it will not be opened until you have your determination.

MR. LAVERY: Why don't we request two scripts, the first script and the revised script.

MR. POE: Mr. Parsons has testified that the revised script dated 5 March is the same as the shooting script, so there is no change, is there?

THE WITNESS: No.

MR. KNOPF: That's the script Mr. Parsons testified has not been changed, and I'd like to have it in our possession. We will not open it until we have permission from you to do so.

MR. POE: I'd like to ask on that --

MR. HOLTZMAN: I can't commit on that.

MR. POE: On that script, the changed pages, is that a total rerun, or are changed pages inserted?

THE WITNESS: I think -- I believe they are blue pages.

MR. KNOPF: Can you get that information for us? We will be in the building tomorrow from 10:00 o'clock on.

MR. HOLTZMAN: I'm going to be here at 10:00 o'clock also.

MR. KNOPF: Perhaps you can get the information.

MR. HOLTZMAN: I will try to communicate by 10:00 o'clock tomorrow. I am obviously not in a position to do it or commit. I am frankly at a loss as to the urgency of obtaining a copy in this fashion tomorrow morning.

MR. KNOPF: I can explain it by saying just so in our minds there is no question that that was the final shooting script, that no conceivable writing could be done on it in the interim. I would not make that accusation, but so that in our minds that has no possibility of happening.

MR. HOLTZMAN: I can do more than present the question, and I will do that. If I can't communicate by that time tomorrow morning, or if I have no answer, I will so state. If I have an answer, I will proceed accordingly.

MR. KNOPF: Fine.

MR. POE: Do you know whether or not Mr. Crichton sent a copy of that script to the Guild at the beginning of the strike? All members were requested to send in whatever material they were working on at the start of the strike for Guild record.

MR. ROSEN: That seems to me something that could be best answered by Mr. Griffiths.

MR. KNOPF: Mr. Griffiths is checking that out right now.

MR. RITTENBURG: Did you wish the script mailed to you at your home or here at the Guild?

MR. KNOPF: I think here at the Guild, please.

MR. ROSEN: Could the Board make an alternative order, if Mr. Holtzman is going to be here tomorrow, rather than mailing it, perhaps it could be put in a sealed envelope and handed to you.

MR. KNOPF: Bring it. We will be delighted. If you will bring it tomorrow, if you get permission to do so, and again it will not be opened without your permission.

MR. HOLTZMAN: All right.

MR. KNOPF: Any more questions of Mr. Parsons?

MR. MENDONSA: None.

MR. KNOPF: Thank you very much, Mr. Parsons, for coming over.

MR. HOLTZMAN: Mr. Chairman, we have no further witnesses or documentary evidence at this time. However, Mr. Haughton, who is here as associate counsel on behalf of Mr. Crichton, has asked permission to make a brief statement, and I'd like to pass the Chair to him for that purpose.

MR. KNOPF: Please, Mr. Haughton.

MR. HAUGHTON: Just a very brief statement to make sure you gentlemen are all aware of Mr. Crichton's position.

On the date in question, March the 6th, 1973, the

Directors Guild of America, Incorporated, had a collective bargaining agreement with Metro-Goldwyn-Mayer Studios, which was in force and effect at that time covering the services of persons employed as directors, assistant directors, and unit production managers. That collective bargaining agreement contains a no-strike clause so that the Guild was obligated to inform its members who were going to work as directors in that capacity only not to do any writing services, but if they refused to render services as directors, they would be liable for breach of their personal service agreement and subjected to civil litigation, possibly put on suspension, and all kinds of other things.

The Directors Guild could do nothing whatever, even however sympathetic it was to the writers' position at that time, because of the no-strike clause. Mr. Crichton and all other members were therefore advised to report to work to render services as directors only and ordered to do no writing services whatever.

That's my statement. I just wanted the record to reflect that situation, because it's a very aggravating and horrible situation for an individual to be involved in. You can think of the astronomical damages that could be incurred if you stopped a feature-length motion picture.

MR. MENDONSA: May I make a statement in response?

MR. KNOPF: Yes, Mr. Mendonsa.

MR. MENDONSA: Thank you.

Your no-strike clause that you referred to in the collective bargaining agreement, do you have a copy of

that with you?

MR. HAUGHTON: I don't have any with me now.

MR. MENDONSA: I assume that that clause only prevents the Directors Guild from calling a strike or sanctioning a strike during the term of its contract with M-G-M; is that correct?

MR. HAUGHTON: No, it goes further than that. It provides that the Directors Guild has got to actively cooperate with the producer in insuring that its members do report for work unless the Directors Guild itself is on strike.

MR. POE: What is the expiration of that contract?

MR. HAUGHTON: There was a reopening on May 1st of --

MR. MENDONSA: It expired 31 April.

MR. HAUGHTON: No, it was a contract for three years, but the Guild had the right to reopen it on May 1st, 1973, which has been done, and we're currently setting ourselves up for collective bargaining starting next Tuesday, as I understand it now.

MR. MENDONSA: But the letter that you sent was only advising that, if they did refuse to perform in accordance with the personal service contract, that they would run the risk of liability, the Directors Guild in no way had a right to bring an action against its members for violating that right or that collective bargaining agreement.

MR. HAUGHTON; I'm not sure that I follow you.

MR. MENDONSA: Well, the members themselves don't violate that.

MR. HAUGHTON; No, the directors can do anything on

their own initiative they want to, including lying down in front of a railroad train, but we had to advise them of the severe problems they could encounter in terms of litigation and damages. We were obligated under the agreement to instruct them to report for work, as I stated earlier, although they didn't have to honor such an instruction.

MR. MENDONSA: So it's just amatter of the Directors Guild's opinion that they had an obligation to perform under their personal service contract?

MR. HAUGHTON: That's correct.

MR. MENDONSA: Are you familiar with the Writers Guild's no-strike clause?

MR. HAUGHTON; No, I'm sorry, I am not.

MR. MENDONSA: And you're not familiar with Article VII of the Guild's collective bargaining agreement that it had with Metro-Goldwyn-Mayer?

MR. KNOPF: What page is that?

MR. MENDONSA: Collective Bargaining Agreement pertaining Writers Guild of America, 1970, Theatrical and Film Basic Agreement.

MR. HOLTZMAN: That's the former collective bargaining agreement?

MR. MENDONSA: That is the former collective bargaining agreement with Metro-Goldwyn-Mayer, and it appears in Article VII, pages 22 and 23, and it states in Section 2 of that article:

> "If, after the expiration or other termination of the effective term of this Basic Agreement,

the Guild shall call a strike against any Company, then each respective then current employment contract of writer members of the Guild (hereinafter for convenience referred to as 'members') with such company shall be deemed automatically suspended, both as to service and compensation, while such strike is in effect, and each such member of the Guild shall incur no liability for breach of his respective employment contract by respecting such strike called provided such member shall promptly, upon termination of such strike, and on the demand of the Company perform as hereinafter in this paragraph provided, and the member shall be deemed to have agreed as follows:" and then it goes on and sets out the agreement.

MR. HAUGHTON: I am familiar with clauses of that type. I don't think it has any application to a person working as a director in this case.

MR. MENDONSA: That is simply your opinion, and that is an opinion that's directed through the Directors Guild to its members.

MR. HAUGHTON; We told any members who thought they had to report to work only as directors, we told them this would not include any writing privilege and do not write.

MR. HOLTZMAN: I think the clear import of that, Mr. Chairman, is to suspend writing contracts with respect

to writing obligations and in effect to avoid penalizing individual writers who are unable to perform services during the strike by having their contracts run out and expire during the pendency of the strike.

MR. MENDONSA: May I point out that is the opinion of counsel as to what that clause says. We know what the Association of Motion Picture and Television Producers and what the networks say that clause means, and we have requested arbitration on that clause with respect to the interpretation of the clause. I suspect that this will be a very important part of the National Labor Relations Board proceedings that are now pending.

MR. ROSEN: May I ask one thing.

Mr. Mendonsa, is it your contention and opinion that the agreement which you just read from covers the jurisdiction which is covered by the Directors Guild?

MR. MENDONSA: We do not cover the employment of anyone that's covered by the Directors Guild as a director, but as a member of this Guild it's our contention that the Guild has a right to set forth rules and regulations of membership in this Guild, and that would encompass anybody that is performing by contract, it would encompass anybody that is performing in any capacity with a signatory company.

MR. HOLTZMAN: We understand that to be your position and respectfully request the record demonstrate our non-acquiescence to that position, which will be fairly obvious.

MR. KNOPF: Mr. Haughton still has the floor.

MR. HAUGHTON: No, I am finished.

MR. KNOPF: I think I am about to ask for closing arguments.

MR. HOLTZMAN: At this point the Respondent rests and, Mr. Chairman, at this point also the Respondent renews each and all of its motions made at the outset of this proceeding on each and all of the grounds which were previously stated. Without belaboring any point that has heretofore been made, I simply want to state that we do this sincerely and with conviction, and we feel that the record now demonstrates affirmatively all of the facts which we asked to be assumed during the course of the motions, and particularly it demonstrates without contradiction the status of Mr. Crichton, the fact that he performed services as a director and only as a director, as a supervisor and executive and only as a supervisor and executive; that he did not cross a picket line for the purpose of performing any services within the jurisdiction of the Writers Guild of America; and I feel the record demonstrates further and even more dramatically that, when he went around that corner and drove down that street, he did not cross a picket line.

For each and all of these reasons, we renew our motions on each of the grounds stated and request that they be sustained in each case.

MR. LAVERY: Mr. Chairman, for the record I think we should have it noted that the Committee follows its ruling heretofore and says no to the renewal of all those motions while still, of course, proceeding eventually to a final judgment, not now.

MR. KNOPF: Closing arguments?

MR. MENDONSA: I will simply state that the record does show conclusively that Michael Crichton did cross a picket line, although he didn't run any pickets over, he crossed a picket line on March 6, 1973, he entered the premises of a struck producer, and he rendered services for that struck producer, all in violation of the Guild Strike Rules.

MR. KNOPF: Mr. Holtzman?

MR. HOLTZMAN: Mr. Chairman, I'm not going to restate all the matters we previously stated. I think the record demonstrates, again without contradiction, that Mr. Crichton has never considered screenwriting to be a significant part of his career. He is primarily known, as you gentlemen well know, as a novelist; he has written some fine novels. As Mr. Ellison has stated, his career has redirected itself toward the direction of motion pictures, and he is engaged today, and he was engaged on March 6th, 1973, as a director and only as a director.

In support of this, even the Guild's own records pertaining to the screen credits he has received are exceedingly sparse and limited, and the two works referred to are "The Andromeda Strain" in 1970 and the Movie of the Week on television, "Binary," in May of 1972.

This man is primarily a director, his character and conviction were eloquently testified to, and the record is clear that, when he says, "I am serving as a director and only as a director," his word can be taken at

its face value. There is no evidence that even suggests that this has not been so.

Under these circumstances, I respectfully submit that the record demonstrates no more than that this man has performed services beyond the scope and jurisdiction of this Guild, and the Committee must necessarily rule accordingly.

I take it that,in view of the matters that were left open, the session will now be recessed and the matter will not stand submitted until the matters relating to the script and screenplay have been disposed of.

MR. KNOPF: Fine. We'll recess until we hear your determination on whether we can receive the final shooting script and view the first cut. There will be nothing further. The hearing is recessed.

* * * * *

STATE OF CALIFORNIA)
) ss.:
COUNTY OF LOS ANGELES)

I, RUTH H. MILLER, CSR and Notary Public within and for the County of Los Angeles and State of California, do hereby certify:

That the foregoing Intraunion Disciplinary Hearing in the Matter of Writers Guild of America, West, Inc. versus John Michael Crichton was taken before me at the time and place herein set forth and was taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

That the foregoing 91 pages contain a true and correct transcription of my shorthand notes so taken.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal this 24th day of July, 1973.

Ruth H. Miller
CSR and Notary Public in and for the
State of California

OFFICIAL SEAL
RUTH H. MILLER
NOTARY PUBLIC-CALIFORNIA
LOS ANGELES COUNTY
My Commission Expires Aug. 30, 1973

21020 Valerio St., Canoga Park, Calif. 91303

ORIGINAL

INTRAUNION DISCIPLINARY HEARING

gc 16 E (2)

In the Matter of

WRITERS GUILD OF AMERICA, WEST, INC.,

Petitioner,

vs.

MICHAEL CRICHTON,

Respondent.

No._____.

TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

May 24, 1973

Reported by:

Carol J. Gertz, CSR

COLEMAN, HAAS, MARTIN & SCHWAB
1830 WEST 8TH STREET • SUITE 201
LOS ANGELES, CALIFORNIA 90057
DU 1-3701

INTRAUNION DISCIPLINARY HEARING

In the Matter of)
)
WRITERS GUILD OF AMERICA,WEST, INC.,)
)
Petitioner,)
)
vs.)
)
MICHAEL CRICHTON,)
)
Respondent.)
)
)

TRANSCRIPT OF PROCEEDINGS, taken on behalf of Petitioner, at 8955 Beverly Boulevard, Los Angeles, California, commencing at 10:30 A.M., Thursday, May 24, 1973, before Carol J. Gertz, CSR - Notary Public.

TRIAL COMMITTEE:

Christopher Knopf, Chairman

James Poe

Nate Monaster

Michael Blankfort

Emmet Lavery

APPEARANCES:

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LOS ANGELES, CALIFORNIA, THURSDAY, MAY 24, 1973

10:30 A.M.

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MR. KNOPF: We are in session.

I would like first to return to the matter under question in the Michael Crichton case.

MR. RITTENBERG: Well, in that proceeding you asked whether Metro-Goldwyn-Mayer would make available a copy of that final script and make available a print of the motion picture for screening so you could verify statements made by Mr. Parsons. Metro-Goldwyn-Mayer has consented, and I have here a letter from Mr. Frank Rosenfeld who is vice-president and general counsel of Metro-Goldwyn-Mayer addressed to you, Mr. Knopf, which I would like to read into the record. It reads:

> "Re Michael Crichton --'West World.'
>
> "There is attached hereto in a sealed envelope the final screenplay for the motion picture entitled 'West World.' This screenplay is being furnished to you pursuant to a request made by both Saul N. Rittenberg and counsel for Michael Crichton. This submission is being made on the express understanding that, one, the attached screenplay will be treated as confidential, and, two, the attached screenplay

will be returned to the undersigned after it has served your purposes.

"Very truly yours, Mr. Rosenfeld."

Mr. Rosenfeld has also told me that Metro-Goldwyn-Mayer would make available for screening to your Committee the first trial composite print as soon as that is ready. My guess is that it will be at least six to eight weeks before that print is available.

Shall I hand this directly to Mr. Knopf, John?

MR. HOLTZMAN: Do you want to attach that?

MR. MENDONSA: Would you like that held under lock and key until ready to be viewed?

MR. KNOPF: Is that satisfactory, or do you prefer it kept in my possession?

MR. RITTENBERG: I think, as we stated, in your possession would be satisfactory.

MR. KNOPF: I will take it with me. And it will be at my house until such time as it is returned.

MR. RITTENBERG: I also want to add an explanation. One page in the script is dated subsequent to March 5. Now, they have included both pages in this package. The reason for the subsequently dated page is that there were two typographical errors which had to be corrected, and both pages are included for your comparison.

MR. KNOPF: It is our understanding that this is being delivered in confidence. And the package will be held intact and not opened until the occasion for screening has arrived.

MR. HOLTZMAN: And only by the Committee will the package be opened. Also, it is our understanding the script will be returned to Metro-Goldwyn-Mayer upon completion of its use intact and no copies made, and the contents will not be disclosed.

MR. KNOPF: There is a conflict. The script will have to be read by five people. And it will be impossible for all five to read it at the same time we are seeing the picture and viewing the film. Therefore, we would like to ask permission to open the package before the screening of the picture at the discretion of Mr. Knopf. And Mr. Knopf will be responsible for the confidentiality of the picture and package at all times. If you could, give us about a week's notice before showing and perhaps several days after the showing.

MR. HOLTZMAN: I think that is reasonable. The point is I do not expect the package to be opened now or tomorrow.

MR. KNOPF: It won't be. We should have a week's notice, and it will be stipulated among the committee at that time and perhaps retained for evaluation of it. Why don't you wait for a written notification for you and a copy for Mr. Mendonsa or something like that.

MR. HOLTZMAN: At that time we will authorize the opening of the package.

MR. KNOPF: Have we disposed of that matter?

MR. HOLTZMAN: I believe so. That matter stands recessed pending the screening dates.

MR. KNOPF: It is recessed.

(The hearing was recessed.)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, CAROL J. GERTZ, CSR, a Notary Public of the State of California, certify:

That the foregoing proceedings were had before me at the time and place therein set forth and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

That the foregoing 6 pages represents a full, true and correct record of said proceedings.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this 20 day of June, 1973.

Carol J. Gertz
Notary Public of the State of California